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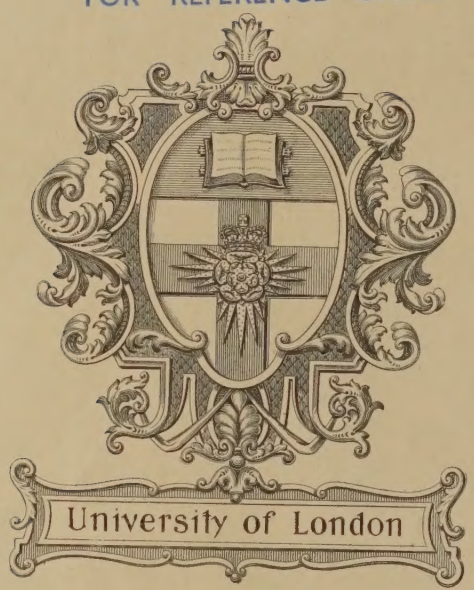

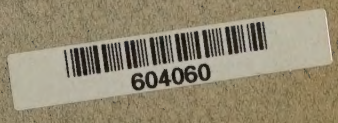
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NEW SOUTH WALES.

(IMMIGRATION.)

RETURN to an Address of the Honourable The House of Commons, dated 12 June 1846; —*for*,

"COPY of the REPORT of the COMMITTEE of the LEGISLATIVE COUNCIL of *New South Wales*, on the subject of IMMIGRATION."

Colonial Office, Downing-street, 19 June 1846.

LYTTELTON.

(*Mr. Francis Scott.*)

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Ordered, by The House of Commons, *to be Printed*, 22 *June* 1846.

SCHEDULE.

Copy of a Despatch from Governor Sir George Gipps to Lord Stanley, dated Government House, Sydney, 27 October 1845 (two Enclosures) - - - - - - - p. 3

No. 1.—Copy of the Report of the Committee of the Legislative Council of New South Wales on Immigration; with Appendix and Minutes of Evidence - - - - - - - - - - - - - p. 4

No. 2.—Copy of the Address of the Legislative Council of New South Wales to Governor Sir George Gipps - - - - - - - - - p. 55

COPY of the REPORT of the COMMITTEE of the LEGISLATIVE COUNCIL of *New South Wales*, on the subject of IMMIGRATION.

(No. 179.)

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
27 October 1845.

Sir George Gipps to Lord Stanley, 27 October 1845.

30 Sept., 1845. No. 1.

My Lord,

I HAVE the honour to forward herewith a copy of a Report made during the course of the present session by a Committee of the Legislative Council of this colony, appointed on the 22d August 1845, to take into consideration and report on the subject of immigration.

I also enclose a copy of an Address from the Legislative Council, in which I have been requested to transmit this Report to your Lordship.

7 October 1845. No. 2.

I agree with the Council in the two principal points mooted in the address, namely, 1st., that immigration to the colony should now be resumed; and 2dly, that the Crown lands, if properly administered, afford adequate means for paying the interest of a moderate loan. I cannot, however, recommend the raising of a loan unless it be guaranteed by Her Majesty's Government; nor can I recommend Her Majesty's Government to guarantee it, unless a full and efficient Parliamentary guarantee be previously given, that the lands of the colony shall not be kept in perpetuity by those who may be the first to seize on them, and that for the use of the unsold lands of the Crown, a moderate annual payment shall be made.

I also feel it necessary to state, that, without attempting to controvert or refute the general nature of the evidence taken by the committee, I can scarcely join in recommending so extensive an immigration as that mentioned in the address. With the consequences, indeed, fresh in my memory, which resulted from my having yielded too readily in the years 1839 and 1840 to the pressure which was then brought to bear upon me in respect to immigration, I feel it necessary to guard myself by saying, that I cannot advise the adoption of any immediate measures for the resumption of immigration, to an extent greater than about one-third of what is mentioned by the committee, or that the expense (to be borne by the colony) should exceed about 75,000*l.* per annum.

I have, &c.

(signed) *Geo. Gipps.*

Enclosure in Governor Sir *George Gipps'* Despatch of 27 October 1845.

No. 1.

REPORT from the SELECT COMMITTEE on IMMIGRATION; with APPENDIX and MINUTES of EVIDENCE.

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, No. 13.

Friday, 22 August 1845.

8. Immigration.—Dr. Nicholson moved, pursuant to notice, "That a Select Committee be appointed to inquire into and report upon the best means of promoting Immigration." Question put and passed, and the following Committee appointed accordingly :

Dr. NICHOLSON.

Mr. LOWE.	Captain DUMARESQ.
Mr. ROBINSON.	The AUDITOR-GENERAL.
The COLONIAL SECRETARY.	Dr. LANG.
Mr. COWPER.	Mr. MURRAY.

REPORT.

The SELECT COMMITTEE of the LEGISLATIVE COUNCIL, appointed on the 22d August 1845, "to inquire into and report upon the best means of promoting Immigration," have agreed to the following REPORT :—

FEW additional reasons can be urged in support of the necessity of immigration that have not been already adduced in the reports of the several committees of 1835, 1837, 1838, 1839, 1840, 1841 and 1843. Your committee have, therefore, not deemed it necessary, with the view of framing their report on the subject of immigration, to examine any considerable number of witnesses. The highly important and conclusive testimony furnished by those whom they summoned, together with the valuable documentary evidence supplied by the quarterly returns from the benches of magistrates and commissioners throughout the colony, and forwarded to Mr. Merewether, the immigration agent, have rendered your committee anxious to present their report to your honourable House with the least possible delay.

The unanimous conclusion at which your committee have arrived is, that there is already a scarcity of labour throughout the colony, and that the deficiency now felt is daily being experienced to a still greater and more serious extent.

It must be unnecessary for your committee to dwell upon the fact universally felt and recognised, that a command of labour is indispensable to colonial prosperity. The resources of a new country can only be developed by constant additions to its population. However great such resources may be, their value and importance bear a direct relation to the means employed in rendering them available. The gradual and natural increase of population, arising from excess in the number of births over that of deaths, would present a scale of augmentation far too slow to meet the demands of the colony. For ages to come it may safely be predicted, that the objects of human industry and enterprise, and the means of human support, will, in this colony at all events, far exceed any possible accumulation either of labour or population that it may possess.

Assuming this proposition to be unquestioned, your committee do not mean to allege but that a due regard ought to be observed between the peculiar description of labour imported, and the special resources of the colony upon which that labour is brought to bear. A want of the due observance of the relation here noticed has been productive of some inconvenience; a considerable number of mechanics, introduced into the colony under the bounty system, failed to find employment during the years 1843 and 1844; a result partly arising from the general depression of the colony, but also unquestionably attributable to a great extent to this class of persons having been introduced in by far too great a proportion to the wants of the country. The chief resources of the colony are of a pastoral and agricultural kind, and the demand for labour in connexion with these is constant and progressive; employment for mechanics and artizans, on the other hand, is necessarily limited to a great extent to towns, and is dependent upon vicissitudes in profits and alternations in the general prosperity of the colony, creating a monopoly of such labour at one period and a superabundance of it at another.

As the labour of this description of persons is not connected with the interests upon which the growth and prosperity of the colony mainly depend, your committee are of opinion that, for the present at least, it will not be desirable to encourage the introduction of any additional number of persons of the class here referred to at the public expense.

The

The primary object of all our colonial enterprise is sheep farming. Seven-eighths of our exportable produce consist of wool, and whatever affects the cost of its production must have the most direct and intimate relation to the interests of the colony as well as to those of Great Britain. A reduction in the price realized by this commodity, or an increased expenditure in the cost of its production (whether arising from exorbitant wages or any other cause) must strike at the root of our general prosperity, as destroying our export altogether, or as rendering the cost of its production equal to or exceeding the prices realized for it in the European market.

It is with much anxiety that your committee have learnt that there is a considerable augmentation in the rate of wages of pastoral and agricultural labour over what has prevailed for the last two years. In some districts "the crops have been abandoned from not having labour," "although 12*s.* and 13*s.* an acre were offered for reaping, with a supply of food." That in the Port Phillip district, so urgent is likely to be the want of shepherds, that if the supply be not speedily sent, it is to be calculated upon "that wages will soon be as high as 40*l.* a year." In the district of Moreton Bay a considerable advance in wages is experienced, and it is stated, that "there is scarcely a single station in the district which is not from three to four men short handed." In "Australia Felix" wages are said to be rapidly increasing, "that shepherds cannot be obtained under 24*l.* a year." That the worst apprehensions are felt as to the event of a fresh supply of labour not being procured, and that if wages become higher, the flockmaster will be compelled to resort to the boiling down of his stock. "During the last three months the wages of shepherds and farm labourers has increased 15 per cent."

Vide Evidence of Mr. Malcolm, p. 16, q. No. 36, p. 17. q. No. 69, and p. 15, q. 8.

Vide Evidence of Mr. Holland, p. 26. q. 9, 11 and 12.

Vide Evidence of Mrs. Chisholm, p. 32, q. 7.

The annual increase in the flocks of the colony requires a proportionate periodical addition to the number of shepherds. The present advanced rate of wages for pastoral labour, and the prospect of a demand for additional labourers, consequent upon the approaching lambing season, have induced many of the flockmasters to consider the expediency of introducing a number of the expiree convicts, and of those holding conditional pardons for the Australian colonies from Van Diemen's Land. Many persons have been induced, your committee believe, to acquiesce in this alternative, from the absolute and overwhelming necessity they felt of procuring a sufficient supply of labour, without being at all unconscious of the social as well as the political objections that exist against such an importation, objections which your committee hesitate not to admit they themselves fully recognize. It is unnecessary to remind your honourable House, that the colony has already incurred an enormous outlay in the maintenance of a system of police and gaols for the support and coercion of British criminals. The fact of such an outlay having been incurred, has formed the ground of a claim made by your honourable House on the British Government for the sum of 793,034*l.* 10*s.* 8*d.* This claim is now under the consideration of Her Majesty's Government, and your committee would fain hope that the reasonableness and justice of the demand that has been made may be recognized, and an adjustment effected in the mode proposed in the resolutions of the Council above referred to. In the meantime, the colony continues to suffer from the enormous annual charge attendant upon the support of police and gaols, and its claims on the British Government to share the burden thus cast upon it acquire additional force each succeeding year. It would therefore appear, that any proposal for increasing numerically that part of the population whose existence in the colony has been, and continues still to be, the cause of the enormous charge created in the judicial and police establishments, is one of questionable expediency on political grounds, more particularly whilst the decision of the Home Government on the claims preferred against it is still pending. Neither, in a social point of view, can your committee hesitate to express their repugnance to any considerable influx of male expiree convicts from the neighbouring colony. The previous career of these men, and the system of probation adopted in Van Diemen's Land, form just grounds against their being engrafted on our population in any considerable numbers. An objection not to be overlooked, as affecting the permanent welfare of the community, is to be noticed in the fact, that additions thus made to the population are of men only, and must tend to increase that disparity between the sexes already exhibited in the census of the population. It is unnecessary to dwell upon the obvious disadvantages arising from this preponderance, or the social and moral evils that must necessarily flow from it. The introduction of an exclusively male population can be attended with no permanent increase in the population of the country, and can only be justified as a temporary expedient, and one calculated to meet a great and pressing exigency.

Vide Resolutions of the Legislative Council, 19 Dec. 1844.

The demand for agricultural and pastoral labour is, notwithstanding what is here alleged, so urgent and irresistible, that in the absence of any system of immigration from the mother country, your committee see no alternative left to the flockmaster but that of availing himself of it within the next 12 months to a considerable extent. The introduction of Coolies from India has indeed been looked to as a source from whence the want of labour may be met, in the absence of all other means for its supply.

The number of sheep and horned cattle now depastured throughout the colony (including Port Phillip and Moreton Bay), amounts to 6,000,000 of the former, and 1,200,000 of the latter. The increase on this stock for the present year will, it may be safely calculated, be not less than 1,400,000 lambs and 250,000 horned cattle. For taking charge of and tending this increased number of flocks and herds not less than 4,000 men will be required. Assuming an equal proportion in the sexes of the immigrants henceforth to be introduced, and making allowance for a due proportion of children, a demand and employment for not less than 12,500 persons is thus created during the course of the ensuing year. The demand for labour for this species of rural employment is uniform and progressive each succeeding

year, and must continue to be so, so long as pastoral pursuits are found to be a source of profitable investment, or until the period (one probably exceedingly remote) when the whole of the grazing lands of the Australian territories shall have become occupied.

The demand for labour in the employments here referred to is most urgent, and the deprivation of it can only be met by the destruction of the flocks and herds of the colony; an alternative not less disastrous to the colonist obliged to have recourse to this sacrifice, than injurious to British commerce. When, owing to the high rate of wages, a flockmaster is driven to the necessity of converting into tallow, for which he probably realizes not more than 5*s.* a sheep, whose annual fleece ought to furnish him with a net revenue of 2*s.* or 2*s.* 6*d.*, he adopts a step, the consequences of which are the extinction of his own capital, and a diminution of an exportable product of the colony, the supply of which is intimately connected with the interests of the British manufacturer.

The demand for pastoral labour is certain, uniform and progressive. The number of immigrants above-mentioned, prepared to settle in the interior, and to accept of engagements connected with the tending of sheep and cattle, would find immediate employment at rates of wages from 12*l.* to 18*l.* a year. The smaller rate of wages accompanied by a larger supply of ration than the higher rate.

It may be urged that the rate of wages held out to shepherds and farm servants is too low to operate as an inducement to this class of persons to emigrate to so distant a colony as New South Wales. In reply to such an objection the committee would remark, that the amount of money wages receivable by a farm labourer or shepherd, forms no absolute criterion of the real improvement effected in his circumstances by his emigration hither. Assuming as an average medium rate of wages 15*l.* a year for a shepherd, if a single man, his weekly ration may be calculated as follows:—

10 lbs. meat.	3 oz. tea.
10 lbs. flour.	1 oz. tobacco.
1½ lb. sugar.	

The value of which, according to the scale of prices of provisions in England, may be estimated as follows:—

	s.	*d.*	
10 lbs. meat, at 5*d.* per lb.	4	2	
10 lbs. flour, at 2*d.* per lb.	1	8	
1½ lb. sugar, at 5*d.* per lb.	0	7½	
3 oz. tea	1	–	
Tobacco	1	–	
Total	8	5½	per week.

Or, of the annual value of about 22*l.*

In the case of a married man with one or two children, and where in consideration of the services of the latter extra rations are allowed, the rate of remuneration for the services of such a class of persons may be represented in the following scale:—

Wages of A. B., as shepherd	£.15	–	–
Three rations:—			
One full ration for himself	22	–	–
Two rations for wife and children (minus tobacco)	40	–	–
Total	£.77	–	–

So that the rate of wages actually acquired by a family of the number and description here referred to, could not be safely calculated at less than 70*l.* a year. It must be also borne in mind, that the possession of a hut, with a portion of land in which vegetables may be grown, free of any rent-charge, forms no unimportant item in the social condition and domestic resources of the country labourer. Thus, in addition to an ample ration of meat, flour, tea and sugar, the farm labourer possesses a cottage rent-free, the product of a small garden, if willing to employ himself in its cultivation (and for which ample time is afforded him), and where accompanied by a family, in most cases, with a gratuitous supply of milk.

It is unnecessary to dwell upon the genial character of the climate of the Australasian colonies, in comparing the conditions of the rural labourer in New South Wales and Britain. The facts recently disclosed relative to the state of the poor in England, by the Right honourable the Secretary of State for the Home Department, and the reports of the various Parliamentary Committees on the state of the manufacturing and agricultural population of the United Kingdom, exhibit an amount of social destitution and want, strikingly contrasted by the superabundant supply of all the necessaries of life to all classes in this community.

It is not merely for this class of labourers only that the colony holds out advantages to such as are disposed to emigrate to it. Your committee are satisfied that a great and all but boundless field exists for the settlement of a description of men intermediate between the labourer and the flockmaster, and who, when once established on the soil, would constitute a class of yeomanry and small farmers. Your committee would indeed consider the resources and prospects of the colony as limited to an extent much to be regretted, if confined only to the advantageous settlement of but two classes; viz. the large proprietor and the labourer. They are, however, satisfied that no British colony possesses superior or probably

equal

equal advantages to those presented by New South Wales to that description of small capitalists who emigrate in such numbers to North America, and who, investing the greater portion of their means in the acquisition of a piece of land, rely upon bringing it into cultivation chiefly through the labour of their own hands and that of their families.

Emigrants arriving in the colony, bringing with them a small capital and habits of industry, would constitute a social grade in colonial society, of which it is at the present moment to a great extent deficient. A boundless extent of land available for culture exists in various divisions of the colony. Australia Felix, generally, may be said to be eminently adapted for the settlement of an agricultural population; the evidence on this point is so ample and conclusive, and is furnished by such a multitude of witnesses, that it would be quite supererogatory to dwell upon it in this report; it may, however, be remarked, as a peculiar feature in the Australian lands, that tracts best adapted for the plough are naturally clear of timber and brush-wood.

It is stated by an intelligent witness, Mr. Malcolm, that "he believes any given area in the Port Phillip district is capable of supporting as large an average population as any part of England or Scotland;" that "he believes that there is no part of the world where small farmers, arriving with their families and with a small capital, could do better than in Port Phillip;" that "he is himself an agent for several gentlemen who have lands in that district let out in small farms; that many of the shepherds, after they have been a few years in service, have saved perhaps 100*l.* or 200*l.*, and turned farmers on their own account;" that "all the lands around Melbourne and Geelong were as rich as any lands he had seen; that a district extending from Lake Colah, about 200 miles to the westward, was capable of supporting the densest agricultural population."

Vide Evidence of Mr. Malcolm, p. 15, q. 5.

p. 16, q. 31, 42 and 43.

Mr. Walker, whose long experience and extended observation in all matters relating to the colony give to his evidence the highest value, confirms the testimony of Mr. Malcolm, as to the great capabilities of the colony for all agricultural purposes. Mr. Walker observes, "I could not think of finishing my enumeration of agricultural tracts without including Australia Felix, in which district there is an immense extent of country suitable for agricultural purposes, and for the maintenance of a dense population, and which has been so well described by Sir Thomas Mitchell, the Surveyor-general of the colony, as 'a region more extensive than Great Britain, equally rich in point of soil, which now lies ready for the plough in many parts, as if specially prepared by the Creator for the industrious hands of Englishmen.' There is, besides, the whole of Gipps' Land of a similar character."

Vide Evidence of Mr. Walker, p. 18, q. 9.

In reply to the arguments adduced for the settlement of a class of small agricultural farmers, your committee are prepared to find it alleged, as an obstacle against the adoption of such a system, that the small farmer has no market for his produce when raised; that the consumption of wheat in the colony is small, and is, to a great extent, met by the growth on the grazing stations in the interior, whilst the market of Britain is closed to us by the imposition of a high duty. In reply to these objections your committee would observe:—

Firstly.—That were a class of agriculturists established generally in the colony, a subdivision of labour would to a great extent be created; that the sheep farmer would limit his pursuits to grazing, and would abandon tillage, if once he could depend upon an adequate supply of grain for the use of his establishment.

Secondly.—As to the want of an European market for Australian corn, the exclusion that now exists, your committee cannot but believe, must soon cease; the claims of this colony to be placed on an equal footing with Canada are obvious and irresistible, and it can only need a repetition of the demands already made upon the justice of the British Legislature, to secure to us a participation of the rights possessed by our fellow-subjects the colonists of British North America.

Thirdly.—Whilst your committee believe that the introduction of a class of small farmers would necessarily be attended with the formation of a home market, and would express their unhesitating belief that the market of England must, before long, be likewise open to them, they would observe that the raising of wheat would by no means constitute the sole object of industry with the small agriculturist. The Australian climate and soil are peculiarly adapted for the growth of all Mediterranean productions; in the southern divisions, for the vine, the olive, the mulberry and the tobacco plant; in the northern, for the cotton tree, the sugar-cane, the coffee and indigo plants, rice and all the indigenous productions of tropical and semi-tropical climates. Numerous and inexhaustible sources of wealth and prosperity remain in abeyance, and wholly undeveloped for want of labour and capital; these, if brought to bear in due proportion, could not fail to elicit results alike productive of prosperity to the individual colonist, the social advantage of the colony at large, and the interests of British commerce generally.

Some of the branches of industry above referred to, have already engaged the attention of the colonists, and the most conspicuous amongst them is the culture of the vine. During the year 1845, 566 acres of land were in cultivation as vineyards (*vide* Statistical Returns laid before the Council for 1845,) yielding 50,666 gallons of wine, and 1,018 gallons of brandy.

With the view of encouraging the growth of the vine, a wish has been very generally expressed, that the immigration of a limited number of vine-growers from the south of France and Germany into the colony, should be encouraged. The knowledge necessary for the successful cultivation of the grape, and the manufacture of wine, is only to be found amongst the inhabitants of the wine-growing parts of Europe; and as the advantages that would accrue to the colony, by the introduction of such a class of persons, would be of the most serviceable kind, the committee conceive that equal facilities should be afforded to them as to British immigrants, either in affording them a free passage under a bounty system, or in the

the granting a remission in the purchase-money on land, as an equivalent for the outlay incurred in their passage.

In entering upon the consideration of the means by which a system of emigration may be re-established to the colony, of a character and to an extent adequate to its wants, your committee feel impressed with all the difficulties that surround such a question. The evidence appended to this Report (which may indeed be regarded as the expression of what is universally felt throughout the colony), can leave no room to doubt that the successful conduct of all colonial enterprise is intimately blended with, and dependent upon a due supply of labour. On the other hand, the determination of the sources from whence the fund ought to be derived for supporting immigration, is a point of great difficulty, and has given rise to many conflicting opinions. For although a unanimous conviction exists of the indispensable necessity of establishing immigration upon an enlarged and comprehensive scale, considerable diversity of opinion prevails as to the mode and means by which this is to be carried out.

Whilst England possesses a population, whose increasing redundancy is felt every year to be an additional burden, it would appear to be only accordant with the principles of justice, as well as of sound policy on her part, to contribute towards the expense incurred in the removal of that portion of her surplus population, which, by its transfer to this colony, instead of being a burden, becomes a source of profit to the parent state. That such an argument is borne out by the actual fact, is unquestionable. The British emigrant, on his settlement in Australia, becomes a larger consumer of British manufactured goods than the inhabitant of any other British colony, or any foreign customer.

The subjoined table is compiled from an official abstract of the exports of the United Kingdom to the several places designated in it. The export to New South Wales, 1,314,161 *l.* is the average of the last five years; as your committee deemed it but fair, in an estimate of this kind, to balance the diminished consumption of European products of the last two years, with the high rate of importation of British goods of the three preceding years. The result of the calculation will show, on comparing the value of these exports with the ratios of the populations of the respective countries, that whilst every inhabitant of Canada consumes annually to the extent of 1 *l.* 15 *s.* 0¼ *d.* worth, every inhabitant of Australia is a consumer to the extent of 7 *l.* 10 *s.* 2 *d.* worth of British produce.

Produce of Great Britain received Annually by	Population.	Value of Imports from Great Britain.	Being at the Rate per Head of
		£.	£. s. d.
Russia	60,000,000	1,895,519	– – 7½
Prussia	14,000,000	483,004	– – 8¼
France	35,000,000	2,534,898	– 1 5¼
Cape of Good Hope	160,000	502,577	3 2 9¾
United States of America	18,000,000	5,013,514	– 5 6¾
Mauritius		258,014	
China		1,456,180	
Canadas	1,000,000	1,751,211	1 15 –¼
Australia (being the average of the last five years)	175,000	1,314,161	7 10 2¼

The exhibition of such a calculation as the above must, it is apprehended, afford an unanswerable argument, that the interests of the people of Great Britain are deeply involved in the promotion of emigration to this colony. The cost incurred in the support of a pauper in England is from 6 *l.* to 7 *l.* annually; his removal from the mother country not only secures to her the negative advantage of being relieved from the burden of his support, but by his transference to our shores he becomes her largest and most valuable customer; instead of draining annually seven pounds from the resources of her industry, he is an annual contributor to her market to that amount; a state of social misery, and all the evils attendant upon a wide spread and increasing pauperism, are exchanged for one in which industry and honest enterprise can never fail of meeting with their due reward, in an all but unlimited command of the necessaries of life, together with many of its luxuries. The contrast presented in the social condition of the labourer prior and subsequently to his emigration to this colony, are strikingly exemplified in the results presented in the Appendix contributed by Mrs. Chisholm, a lady whose enlightened and benevolent exertions in behalf of immigrants, have been such as to merit the acknowledgment and thanks of the whole colony.

Vide Appendix, p. 34, by Mrs. Chisholm.

The direct advantages accruing to the mother country from emigration to New South Wales are so obvious and decided, that it may fairly be assumed that it is as much her interest to promote and encourage, as it is the interest of the colony to aid the cause of emigration. Your committee would therefore express an earnest hope that on a due appreciation of the reciprocal character of the advantages accruing from emigration to the colony, and to the parent state, Her Majesty's Government may be induced to concur in some measure, by which a considerable portion of the expense incurred in the transport of the emigrant to our shores, may be defrayed either by the Government or parishes in England. They therefore trust that his Excellency the Governor may be induced to join your honourable House in making such representations to Her Majesty's ministers, as may lead them to recognise the justice and expediency of defraying, by a joint contribution from Imperial and colonial funds, the expenses incurred for an object not less important to Imperial than to colonial interests.

The source from whence the cost of immigration has hitherto been borne, has been exclusively from the land fund. Since the imposition of an upset price of 1 *l.* an acre on the waste lands of the Crown, the revenue derivable from this source has been virtually annihilated,—or at all events has not been more than sufficient to defray the expenses connected with their survey and management.

The following Table exhibits the proceeds derivable from the sales of land for the last five years:—

1840	£.	316,626	7 5
1841		90,387	16 10
1842		14,574	10 4
1843		11,297	3 9
1844		7,402	18 6

The practical evils resulting from the augmentation in the upset price of land have been already fully developed in the Report on Immigration, 1843; in the Report on the sale of Waste Lands, 1843; and in the Land Grievance Report of 1844; and the opinions of your honourable Council, distinctly pronounced on the same subject, in the Resolutions of the whole Council of the 17th of September 1844. Your committee therefore consider that it would be inexpedient on the present occasion to reiterate arguments previously adduced on this subject, the validity of which have been repeatedly and solemnly affirmed by the votes of your honourable House; they would simply beg to confine themselves to the expression of their belief that the arguments and resolutions contained in, and founded upon, the reports above referred to, continue to exist in undiminished force.

The extinction of any revenue derived from the sale of lands, has however been supplied, in some degree, by that received from the license fees; the amount raised from this source at the present moment is not less than 30,000 *l.* annually; and by the terms of the regulations of his Excellency the Governor, of date 10th July 1845, the committee apprehend that the annual amount derivable in this way will shortly reach 50,000 *l.*

It is, your committee believe, the intention of the Executive Government to apply any surplus in what are termed the Crown revenues to the purposes of immigration, and the receipt of funds from this source has been already anticipated, in the issue of debentures by the Government in payment for the immigrants that arrived during the years 1844 and 1845, amounting to 100,000 *l.*

For the reasons set forth in the Report of the Select Committee on Immigration in 1843, your committee deprecate the adoption of any plan, by which the colony is compelled to make immediate payment from its present resources for the cost of introducing immigrants. Your committee have reason to believe that the sudden export of upwards of 1,000,000 *l.* sterling of its capital, incurred in the payment of bounties on the immigrants who arrived in the years 1838, 1839, 1840, 1841 and 1842, was one of the chief causes of the great crisis, and of the extraordinary depreciation in the value of all kinds of property that ensued in the years 1843 and 1844. However important or paramount an object the introduction of labour may be, and undoubtedly is, the retention of capital for the employment of that labour is equally essential to the well-being of the colony; it may also be remarked, that the advantage derived from the introduction of European immigrants is not wholly immediate, but to a great extent of a prospective character. To any well-devised system, in which a due proportion of the sexes and children are included, the amount of immediate and available labour secured to the colony is, in the first instance, confined to probably not one-fourth of the number of persons introduced. A family, consisting of a husband, a wife and two children, arrive in the colony under the bounty system; the labour of the husband is alone applicable to the present necessities of the colony, and there must necessarily be a considerable postponement in the period when the services of the children can be applied to any useful purpose. The foregoing reason may be urged as a sufficiently adequate one, for distributing the payment incurred in the importation of immigrants over a given number of years, so that the benefit accruing to the colony from the introduction of population, and the period when that population should be able to contribute to its industrial means, might be coincident. Another and not less obvious reason exists, however, why capital should not be at once exported from the colony; the lowest current rate of interest here at the present moment may be considered as upwards of six per cent., and to vary from that amount to ten per cent. The ordinary rate of interest in England is from three to five per cent. It is unnecessary to observe, that large amounts of capital are forwarded from Britain to the colony, from the higher rate of interest by which capitalists are tempted to invest their money in colonial securities; your committee would therefore regard it as alike inconsistent with sound policy, and as calculated to bring on a return of the same great monetary crisis from which the colony is now emerging, were any large and sudden export of its capital to be made consequent upon the re-establishment of immigration.

A loan raised in England, at a moderate rate of interest, and redeemable by a sinking fund, would present a means for averting all the evils above referred to, whilst the most ample security would be afforded to the British creditor. Half a million sterling, raised at four per cent. (the rate at which the Canadian loan was negotiated) would, if properly expended in immigration purposes, introduce into the colony 40,000 persons. The annual charge for interest at the rate above referred to, would amount to 20,000 *l.*, and assuming an equal sum to be raised for a sinking fund, the annual sum chargeable on the colony would be 40,000 *l.* This charge would only last until the period when the reduction of the debt would be consequent upon the accumulation of the savings effected by the sinking fund, a period which, it is calculated, would not extend beyond 20 years; in other words, the colony would secure to itself

itself the advantages arising from the addition of 40,000 souls to its present number of inhabitants, by the payment for 20 years of an annual sum equal to 1*l.* a head of the number so introduced. It would, however, be no extravagant assumption to say, that at the period of the expiration of the debt, the number of persons it had introduced would, with their progeny, have amounted to twice that number.

Your Committee would wish to anticipate any objection that may be made that such an annual charge as that above referred to would be felt to be burdensome on the colony. With a population of 173,377 souls, the amount of revenue raised during the year 1844 was as follows:—

	£.	*s.*	*d.*
Ordinary Revenue - - - - -	255,926	13	–
Casual and Territorial - - - - -	34,659	–	11
	£. 290,585	13	11

being at the rate of about 1*l.* 13*s.* 6¼*d.* per head on the whole population. This is independently, it may be observed, of any proceeds from the sale of lands worth mentioning; and also irrespective of the augmented rate of charges for licenses to occupy the waste lands of the Crown. From the latter source an enormous amount of revenue must be derived, if the regulations of Sir George Gipps, of July 1845, are found to be practicable or are carried out. Under all the circumstances here adverted to, your committee have no hesitation in declaring their belief, that a charge upon the colony of 40,000*l.* a year for a limited period, secured for purposes of immigration, and faithfully and economically applied to those purposes only, would be fully met by the advantages the colony would derive in the increase of population, and in the augmented supply of labour placed at its disposal.

The assumption by the Executive of the entire control and application of that branch of the revenue termed the "Casual and Territorial," precludes your honourable Council from making such appropriation of, and charges on, the revenue in question for immigration purposes as they might deem expedient, were the whole revenues of the colony placed at the disposal of the constitutional representatives of the people, subject to a civil list, as prevails in Canada. Whilst the Crown reserves to itself the exclusive right of raising imposts from the occupants of its waste lands, and the entire appropriation of the moneys accruing from this and other sources, your committee feel that the question submitted to them is a very delicate and embarrassing one. Their province is rather to state as clearly and as forcibly as possible, for the information of Her Majesty's Government, the pressing wants of the colony in regard to immigration, the advantages which would arise to the immigrants, and the relief which would be afforded to the mother country by the removal of her redundant population from a state of want and distress to one of comparative comfort.

Were the claims of the colonists to have the casual and territorial revenues placed at the disposal of the Governor and Legislative Council conceded, the Council could then adopt a course for carrying out immigration upon a scale commensurate with the pressing demands of the colony. Until these just claims are conceded, the committee can only recommend that such representations may be made to the Home Government, as may cause a supply of labour to be afforded, and thus prevent the ruin of those important interests upon which the welfare of the colony almost exclusively depends.

A loan of a million and a half sterling to Canada has been guaranteed by the British Government, and it may be safely urged that, on the grounds of their loyalty to the Crown, as well as from their importance as a section of the British Empire, the colonists of New South Wales have as great a claim upon the consideration of the Imperial Government as their fellow subjects, the North American colonists. It cannot be doubted but that any loan raised for Australian purposes, and guaranteed in a similar mode to that adopted with regard to the loan raised for Canada, might be negotiated upon equally favourable terms.

In the event of an immigration fund being raised, it is necessary that various details as to the mode of its application should be fixed. Your committee, from a desire to abbreviate their Report as much as possible, will confine themselves to some of the more important points connected with the conduct of any system of immigration that may be henceforth established.

First. As to the number of immigrants to be introduced within a given period, the lowest estimate made by any of the witnesses is 12,500 annually. The periodical demand created by the annual increase of the flocks and herds cannot be estimated at less than 4,000 men; these, if accompanied by an equal number of women, and in the case of married couples by a due proportion of children, would amount to about the number above specified. Your committee feel no hesitation in expressing their belief, that the number here referred to would find ready employment at moderate rates of wages; the same ratio of immigration might also, they are persuaded, be continued for a period of not less than three years, by which an importation of upwards of 40,000 persons would be effected, and the whole sum appropriated for which the loan is proposed to be contracted. This calculation is founded upon the assumption that the entire cost of immigration is to be charged on the colony. It is to be hoped, however, that some proportion of the outlay incurred will be met in the manner suggested above, either by Parliament or by parochial contributions, so as to secure a much larger amount of immigration than the colony by its own unaided resources may be able to effect.

Your committee are of opinion, that whilst some of the regulations now in force as to the description of persons entitled to the bounty under the immigration system, demand increased stringency, that others, on the contrary, may admit of relaxation. In the cases of families

desirous

desirous of immigrating, and where the age of the parents exceeds that prescribed in the regulations, it may be desirable, for the sake of preserving the beneficial moral influences arising from the relationship above referred to, be necessary or be expedient to deviate from the rule now laid down excluding all beyond the age of 50 years from coming under the bounty system.

The number of mechanics now in the colony are sufficiently numerous for its wants; the importation of immigrants ought therefore to consist exclusively of a population ready to engage in rural occupations.

Your committee have reason to believe, that a class of men who in England are frequently subjected to great difficulties and hardships from want of employment, "The Hand-loom Weavers," would gladly emigrate, and would readily accept engagements on their arrival here as shepherds.

Vide Evidence of W. A. Miles, Esq., p. 22; also, Parliamentary Report on the condition of the Hand-loom Weavers, printed by order of the House of Commons, 1839.

Whatever number of emigrants may be henceforth introduced, ought to be derived in equal proportions from the three kingdoms. Nor do your committee consider the system of allowing the selection to be made by the contractors, one that ought to be perpetuated. On the contrary, they are of opinion that the duty of selecting emigrants ought to be one delegated to some responsible agent, who might be held answerable for the due exercise of his powers to the Government and the colony.

Secondly.—As to the points of debarkation. The system hitherto pursued of landing all immigrants at Sydney or Melbourne has been productive of much and serious inconvenience. The immigrant by being landed in Sydney is exposed to the temptations of a large town, and accepts country employment with reluctance. The settler residing at Portland Bay or at Moreton Bay, is also subjected to great inconvenience and expense, in being compelled to send to Melbourne or Sydney for the hiring of his servants. Your committee therefore propose that one-third of the number conveyed to the colony should be landed at Port Phillip, another third at Sydney, and the remaining third at Portland Bay, Twofold Bay, Jervis Bay, Port Macquarie and Moreton Bay. Arrangements might, they are satisfied, be easily effected for receiving the immigrants at the several localities last named on their arrival.

The only remaining point connected with the revival of a system of immigration, to which your committee will now advert, is that connected with remission in the purchase-money of land granted to immigrants defraying the cost of their own passages, or that of their servants, to the colony.

The Committee on Immigration in 1843 recommended the adoption of such a system, and notwithstanding any arguments that may have been adduced in opposition to the views therein contained, your committee nevertheless desire to express their entire concurrence in the arguments contained in the report above alluded to. The proposal of granting such a remission is in perfect accordance with the declared views of individuals whose competency to offer an opinion on the subject is beyond all question. The simple fact, declared throughout the United Kingdom, that any farmer or intending settler should, immediately on his arrival, be entitled to receive land (or a remission in the purchase of land) in proportion to the number of persons introduced by him into the colony, would operate as a plain and strong inducement to the yeomanry and middle classes of England to settle amongst us, bringing with them, as they undoubtedly would, the elements of prosperity, namely, capital and industry, and laying the foundation of an order of citizens (perhaps the most useful in society) intermediate between the labourer and the larger landed proprietor.

Finally, in urging upon Her Majesty's Government the adoption of measures for restoring emigration to the colony, your committee would briefly observe, that the measure is one in which the interests of this community are vitally involved; the all but boundless extent of waste lands which the colony possesses continues valueless whilst unoccupied; the present number of inhabitants is altogether inadequate to the development of its resources; tracts of land capable of supporting millions of human beings continue as unreclaimed wastes, and the annual multiplication of the flocks and herds, by their natural increase, constitute the anomaly of difficulty arising from superabundance. The exuberant production of everything contributing to human sustenance, renders its possession, from want of consumers, a source of embarrassment; so that it may be justly alleged, that whilst in old countries one of the greatest of social evils arises from population pressing upon the sources of subsistence, the converse of that proposition may be held, to a certain degree, as justly applicable to this colony.

Your committee believe, that it is only necessary that the resources of the colony, and the extent to which they may be made available as an outlet for the surplus population of the United Kingdom, should be accurately shown, to ensure such a degree of co-operation on the part of Her Majesty's Ministers as may lead to the establishment of a regular and uniform system of emigration.

Such a system, if conducted upon an enlarged and comprehensive basis, from funds derived from Imperial as well as colonial sources, could not fail to be attended with results of the highest importance, whether as viewed in connexion with the prosperity of the colony, the social amelioration of the British labourer, or the advancement of British commerce and manufactures.

(signed) *Charles Nicholson*,
Chairman.

Legislative Council Chamber, Sydney,
30 September 1845.

APPENDIX.

EXTRACT from a Commercial, Statistical and General Report on the District of *Port Phillip, New South Wales*, for the half year ended 31 July 1845.

IMMIGRATION AND SUPPLY OF LABOUR.

THE rates of wages have slightly advanced during the present year; shepherds and agricultural labourers obtain from 20 *l.* to 25 *l.*, with rations and lodging; domestic servants (females), 12 *l.* to 18 *l.*; married couples, 30 *l.*; gardeners and other skilled labourers, 26 *l.* to 35 *l.* per annum; upwards of 200 British emigrants, under the bounty system, are shortly expected from Liverpool.

The scarcity of labour, both present and prospective, has induced a number of colonists, chiefly those connected with depasturing pursuits, to organize themselves into associations for the purpose of defraying the expense of introducing expiree convicts from Van Diemen's Land; the Governor of that colony, in order to facilitate the distribution of the convicts over the adjacent settlements, has lately published a regulation, extending conditional pardons to approved parties, to enable them to proceed to the Australian colonies and New Zealand.

The new scheme intimated last year, by the Home Government, respecting the introduction of "Exiles" to these colonies has not as yet been followed up to any extent; 251 of these parties have arrived in the district; they are undoubtedly an improvement upon the miscellaneous crowd that a scarcity of labour and a permanent superiority of wages in this district might cause to be introduced from Van Diemen's Land; and accordingly, the great majority of the squatting interest have testified their approval of this contemplated measure. The moral consequences, however, have overshadowed the commercial benefits in the view of other portions of the community, particularly the residents in towns. The people of Melbourne and Adelaide have vigorously protested against the exiles; and though not disposed to deny that they are the best of the two threatened evils, there is a strong disposition to resist the approach of both, as introducing an extent of criminal population, whose large and increasing proportion to that of the free and unconvicted population must seriously affect the social and moral state of society, and prove destructive of the best interests of the settlement. As the arrival of any considerable number of the exiles, in the event of a continuance of the proposed system, will occasion a disproportion of males in the colony, still greater than what already prevails, the necessity of a system of free female emigration from Britain to a corresponding extent, should be urged upon the Home Government.

The following Bill, in regard to the important subject of emigration, is proposed to be introduced into Parliament during the present Session (commenced in February), by Mr. Buller, for which he is understood to have obtained the sanction and the promise of the assistance of Government—"A Bill for enabling Parishes, by their Board of Guardians, to apply as much as they may deem expedient of the Parish Rates towards assisting able-bodied men and their families to emigrate to Her Majesty's Colonies, paying their passage and allowing them one month's sustenance upon their arrival in such Colonies; the persons who take such money and allowance to be for ever discharged from the Poor Rate of such and every other Parish."

It is doubtful to what extent the privilege here given to parish guardians may be acted upon; any amelioration of pauperism in Britain by means of emigration could be effected only by extensive and co-operative measures, as the evil is too immense to be dealt with by isolated or unconnected efforts. Doubtless, it is on this account that no great degree of success has hitherto attended such efforts. Indeed, from past experience, the removal of paupers by emigration to the colonies has appeared to be only the means of creating fresh recruits for this vast and fertile branch of the population. In the case of Rye Union and several other districts in England, about one-eighth of the population has been removed by emigration within the last few years, but without any sensible effect in diminishing either the progress of population or the amount of pauperism; and the prospect held out by this and similar facts, induced one of the Assistant Poor Law Commissioners (Mr. Tufferell), to consider as entirely hopeless any attempt to benefit the country even by a comprehensive and general system of emigration.

But hitherto the system of promoting emigration at the expense of the respective parishes of the emigrants has been tried upon a very partial and limited scale. During seven years, 1835–42, the total number of emigrants from Britain to the colonies amounted to 580,559; but out of this number only 10,075 received parish assistance, and that to a very small extent, as appears by the following statement:—

TABLE 23. Parish Emigration from Britain to the Colonies, 1835–42.

Colony, &c.	Number.	Outlay.	Contributions per Head.
		£.	£. s. d.
North America	6,737	39,795	5 18 –
United States	364	2,313	6 7 –
Australia	2,860	13,237	4 13 –
Cape	114	944	8 7 –
Not specified	–	4,835	
TOTAL	10,075	61,134	

A distinguished modern writer (Laing, "Atlas" Prize Essay, pt. 3, c. 6), suggests, as an equitable arrangement, that one-third of emigration expenses be defrayed by Government, one-third by the colony, and one-third by the landlord; the same author conceives that emigration operates most usefully and successfully with considerable bodies of people, accompanied by several of the upper classes who are well known to the emigrating community, as, for example, the clergyman and schoolmaster of the locality whence they proceed; these societies of emigrants, it may be remarked,

are

are very suitable for giving a commencement to a new and remote settlement; in established colonies the theoretical unity is apt to disappear under the practical bearing of the division and economy of labour, which soon upsets all original arrangements, and distributes the emigrants among the established occupations of the place.

With regard to the description of labourers required in New South Wales, the chief demand is still, undoubtedly, for young unmarried men; the custom of having a married couple instead of two single men for the duties of "hut-keeping" and shepherding at the stations, is now more common, and will have the effect of improving the social condition of the interior; unmarried females are required as domestic servants, but a very limited number should be permitted to arrive at any one time, unless under charge of their respective parents.

In other respects, with regard to labour, any description of able-bodied men will be made useful to the colony, and, undoubtedly, the most important part of an Australian emigration agent's duty consists in the selection of character. "Great difficulty had been found," observes Sir C. Bagot, with reference to the emigration to Canada in 1841, "in procuring employment for emigrants who came merely as labourers, without any previous knowledge of agriculture, or of any mechanical trade. Under ordinary circumstances, the demand for unskilled labour is exceedingly small, and I should be disposed to dissuade rather than encourage the emigration of that class;" the class that Canada cannot receive will find employment in Port Phillip, and in Australia generally.

The subject of the introduction of Coolie labourers into New South Wales has not of late attracted attention; great numbers of these Indians are now regularly conveyed to the Mauritius, the Indian Government having sanctioned an annual allowance of 6,000 for the use of that colony. In December last, a proposal was made in the Jamaica Legislature, that 45,000 *l.* be raised for the purposes of Hill Coolie immigration.

LETTER from the Rev. *Christopher Eipper*, Presbyterian Minister, of Braidwood, to the Chairman of the Immigration Committee, 18th September 1845.

Sir,

UNDERSTANDING that a Committee of the Honourable the Legislative Council has been appointed to take into consideration the important subject of immigration, and having been apprised, by one of its members, that it would not be unwilling to receive suggestions from persons possessed of local or other information on the subject to come before it, I beg leave to submit to you the following observations on the eligibility of the district of Moreton Bay for the settlement of numerous families and individuals of the humbler and middle classes of the soil-cultivating population of the south of Germany, who, I am satisfied, could be induced, by a very little encouragement, to emigrate, partially or entirely at their own charges, and settle permanently either in that district or in other parts of the colony. I am a native of Wirtemburgh, in the south of Germany, myself, and have, besides, some acquaintance with the inhabitants of the Grand Duchy of Baden, Switzerland and Alsatia. In the district of Moreton Bay I have resided, as a missionary to the aborigines, from the month of April 1838, till October 1843, when the mission was broken up.

The climate of Moreton Bay I have found peculiarly salubrious, and more equable than that of the colony generally; the severe drought of 1839, for instance, not having been felt in that district. Its soil, from its very variety of lightness on ridges, with a substratum of clay, and of richness on flats of black loam, produces, in great abundance and perfection, sweet potatoes, maize, wheat, pine-apples, peaches, bananas, plantains, mulberries, sugar-cane, pumpkins, melons of every sort, arrowroot, yams, limes, lemons, citrons, oranges, nectarines, coffee, tobacco, millet, every sort of vegetables; and from its proximity to the tropics, it would doubtless be found capable of producing most of the plants growing in tropical parts.

The observation of its capabilities has frequently led me to reflect, how well it would answer the various branches of culture, peculiar to the south of Germany, such as the vine, tobacco, flax and hemp, millet, rape, and poppies for oil, krapp and other weeds for dyeing, thistles for carding cloths, &c. And as many of these productions, and chiefly the vine and tobacco, are not raised in the British isles, immigrants from Great Britain and Ireland are less likely to turn such a soil and climate to proper account. With a view, therefore, of developing the capabilities of this colony, it would seem desirable to introduce such immigrants as would, from their practical knowledge of the culture of new branches, be best fitted to accomplish so desirable an object. Without fear of being accused of partiality, I may say, that the Germans have generally been found to make good colonists, on account of their industrious and frugal habits, their intelligence and perseverance, in which assertion I am borne out by the flourishing condition of the German settlements of South Australia. This colony would therefore unquestionably derive great benefit from the formation of one or two settlements of German agriculturists and vine-dressers at Moreton Bay, or in other parts of the colony, or from the general dispersion of such throughout the colony, should such a plan appear to be preferable. They might, if successful, not only lead the way to others of their countrymen who might wish to follow them, but also set an example of the culture of various new branches to British immigrants.

I am not aware that the disposition to emigrate has at all declined in the south of Germany, or any where in that country, as the same causes by which it was engendered—oppressive taxation, over population, and want of religious and civil liberty—are, to the best of my knowledge, still in existence. Emigrants have, hitherto, chiefly gone to the United States; but other parts of the world—Poland at one time, the south of Russia at another, and Algiers at a later period—all within the last 40 years, have attracted great numbers of emigrants from my native country; in the southern provinces of Russia, the Krimea, Bessarabia, Grusinia, the Caucasus and Astrachan, there are upwards of 30 parishes of Germans, many of whom are Wirtembergers. Every opportunity, indeed, which offered, was eagerly, but often to their bitter regret, embraced by many individuals and families of my countrymen; no matter what country they went to, if they had but the means of reaching it, or of purchasing, or otherwise acquiring a small farm. Of the general eligibility of this colony, and its superior salubrity, my countrymen are, I may say, entirely ignorant, with the exception of the few who may have received some information, either from myself, or other German missionaries. The main hinderance, however, to their emigration hither is its distance from Germany. The length of sea voyage, as in itself it deters many, renders the expenses of the emigrants so great, as to cause them to dismiss every thought of emigrating to this country from their mind, for, on

an average there will, among 10 emigrants, not one-half be found who reach the place of embarkation with funds in their possession amounting to 50 *l.* sterling, a sum hardly adequate to defray the cost of a passage to New South Wales, for a man with a wife and one or two children. His prospects on landing, would consequently be only starvation in a strange land, or servitude, a condition which, of course, is not his object or aim to attain to, in leaving his country and kindred. But I have no doubt emigration to this country from Germany and the continent of Europe in general, would at once commence, if its general advantages and eligibility were properly known, and some such encouragement were offered to the emigrants, as ensuring to them the remission of the purchase-money of whatever land they might buy on their arrival, at the present minimum price, up to the actual cost of their passage out. Thus, if a family of a husband and wife and one or two children had paid 50 *l.* for their passage out, they should be allowed to purchase 50 acres of land at the minimum price, and receive the same, free of cost, with six months' rations. There are, however, numbers of the labouring agriculturists and vine-dressers of Germany, who, after selling all they are possessed of, would not have sufficient means to defray the cost of their passage out, especially if they have large families, but who would nevertheless, from their practical knowledge of various new branches of culture, be a great acquisition to the colony. The majority, indeed, of the emigrants from Germany to the United States, land in New York without any funds in their possession, and having neither the means of proceeding to the back settlements in the west, nor, if able to proceed through the assistance of some friends or relative, of purchasing land at the low price of that country, drag on, either in the towns or in the interior, a miserable life, and are scarcely able to subsist; it would therefore be sufficient inducement if, to such as have no means to defray their own passage, a conditionally free passage to this country were offered, that is, with the understanding, that on their landing in the colony they were to hire with the settlers as farm-servants or vine-dressers for a period of three years; of their first year's wages their employers should be required to pay in advance the one-half, which should go towards refunding the expenses of their passage out. Considering the benefits which the country would derive, the sacrifice would not be great, if the other half of the cost of passage were remitted to the foreign immigrant, while the granting an unconditionally free passage to the British subject would still show, that as such, he was considered as entitled to greater advantages than a foreigner, who might be equally if not more useful to the colony, but who was bound to servitude for a period of three years, and after the lapse of that period might, with the savings from his wages, purchase a small farm of 20 or 30 acres.

It is chiefly from the smaller and Protestant German states, that the stream of emigration has hitherto flowed; the larger states, Prussia and Austria, which are not bound by constitutions, having, till very lately, successfully, because tyrannically, shut up their subjects in their dominions. The majority of emigrants have been, I believe, Protestants of the Lutheran and Reformed Churches, and I am satisfied, there would be no difficulty in finding in Wirtemberg, Baden, Switzerland and Alsatia alone, large numbers of emigrants, not only Protestants but truly pious men, which in a religious point of view would be a great acquisition to this country. They would consist partly of such as are possessed of funds adequate to defraying the cost of their passage out, on the understanding that such outlay would be made good to them by the remission of the purchase-money of such land as they may acquire, and that they were to form one or two separate settlements; and partly of such as would embrace the offer of a conditionally free passage, half the cost of which was to be refunded from their first year's wages, by settlers hiring them on their arrival in the colony. This latter class would, by their dispersion through the colony generally, benefit it at once, and perhaps even more than the former, by the formation of separate settlements.

I do not mean to speak for myself, with a view of being sent upon such a mission, but I cannot avoid stating it as my firm conviction, that the mere publishing of a prospectus, and mere newspaper information of the advantages of the colony, and the facilities held out to emigrants hither, will not be found sufficient to draw the attention of German emigrants to this colony, much less to induce them actually to come out. There have already been so many frauds and impositions practised upon them, that they require strong and well authenticated assurances before they would embrace an offer of emigrating, whatever quarter it might come from. Not long ago, a company in Hamburgh having purchased land, on paper it seems, from the New Zealand Company, published a flaming prospectus of emigration to that colony, under the sanction and upon the faith (as it was headed) of her Britannic Majesty, which induced a number of Germans from the Duchy of Nassau to emigrate. Before leaving Hamburgh, they paid for the land they were to occupy; on arriving in New Zealand they heard of the massacre of Wairau, which had recently taken place, which frightened many of them to such a degree as to induce at once to leave for Van Diemen's Land; others that remained were never able to set foot upon their dearly paid possession. They have written home how they were imposed upon, and desired their friends to publish it in the newspapers. Having spent their all, they were, in order to be kept from starvation, employed by Government in road-work; and others who had retained a little money, have taken refuge in this colony. I do not write this in order to blame either the New Zealand Company or the British Governor, but to show that it is indispensably necessary, in my humble opinion, that if emigrants from Germany are to be obtained, an accredited agent must be sent thither; he should, if possible, be a native of the south of Germany; even a native of the northern parts of Germany would not do so well; he should be a man of religious standing, and furnished with introductions to influential men of high standing and religion, both ministers and laymen, so that the people, seeing he was countenanced and assisted by such men, could have full confidence in him; for to such men the people are generally in the habit of applying for counsel and advice upon every important step they are about to take.

If your committee should still be sitting on or after the 1st day of October, which day I shall arrive in Sydney, I shall be happy to answer any questions they might wish to put to me, if called before them; for which purpose, a note addressed to me might be left with the Rev. Dr. M'Garvie, Minister of St. Andrew's Scots Church, Sydney.

I have, &c.
(signed) *Christopher Eipper*,
Presbyterian Minister, Braidwood, St. Vincent.

MINUTES OF EVIDENCE.

LIST OF WITNESSES EXAMINED.

James Malcolm, Esq. - - -	p. 15	Rev. William Schmidt - - -	p. 28
Robert Graham, Esq. - - - -	17	William Walker, Esq. - - - -	30
Thomas Walker, Esq. - - - -	18	Mrs. Caroline Chisholm - - - -	31
William Augustus Miles, Esq. - -	22	John Dobie, Esq. - - - - -	36
Thomas Barker, Esq. - - - -	23	William Dumaresq., Esq. - - -	39
Phillip Holland, Esq. - - - -	26	Francis Lewis Shaw Merewether, Esq. -	40
John Udney, Esq., M.D. - - -	27	Mr. J. F. Johnson - - - - -	53

Thursday, 28 August 1845.

Present:

CHARLES NICHOLSON, Esq., M. D., in the Chair.

The Auditor-General.	The Colonial Secretary.
Charles Cowper, Esq.	Rev. Dr. Lang.
Robert Lowe, Esq.	Joseph Phelps Robinson, Esq.

James Malcolm, Esq., called in; and Examined.

J. Malcolm, Esq.

28 August 1845.

1. You are a settler at Port Phillip?—Both a squatter and settler; perhaps the oldest squatter in the district.

2. Do you consider the colony, generally, a favourable field for immigration?—I do.

3. More especially Port Phillip?—More particularly.

4. What population do you think the district of Port Phillip is capable of supporting?—I cannot well answer that question; I should say certainly a very large population.

5. Do you think any given area in that district would support as large a population as a similar area in any part of Great Britain?—I think it would; I have been through many parts of England—through the county of Kent and other agricultural counties,—and also through Scotland, and I have seen in Port Phillip large tracts of land as rich as any I have seen in Great Britain.

6. By Mr. *Lowe.*] Equal to the best parts of Great Britain?—The district from Lake Colach for about 200 miles, is very rich; I do not think there is richer land in any part of the world; it is as good land as ever plough was put into.

7. And already cleared?—Yes, there are thousands of acres adjoining Lake Colach clear of timber, and the richest land I ever walked or rode over; it is about 45 miles from Geelong, between Geelong and Portland.

8. By the *Chairman.*] Is it well supplied with water?—Yes; with streams and lakes, one of which is about 20 miles in circumference.

9. You are of opinion, then, that the field is almost unlimited for the eligible settlement of immigrants?—I should say so; all the way to Port Fairy, on the Glenelg River, is as good as the part I have spoken of, taking the south side of the lakes; the other side is not so good, but is a good grazing country.

10. Do you know the country on the banks of the Goulburn?—Yes; I have been on the Goulburn.

11. Do you think that is a country which would support a large agricultural population?—I do not; from what I have seen of it, I should say it is more a sheep country. I have been over a tract of country extending from Lake Colach to Portland Bay, which I never saw the like of; a great part of it is too rich for sheep.

12. What is the rate of wages of labourers in your district at the present moment?—I am paying from 20*l.* to 25*l.*

13. With what ration?—Ten pounds of flour, twelve pounds of meat, two pounds of sugar, and a quarter of a pound of tea. I wanted to engage with one man to give him 10 pounds of meat, and he said he would not come unless I gave him 12 pounds.

14. How many sheep have you in your flocks?—I have now about 1,500; 2,000 might be attended to better in open plains, than 1,000 in a thickly timbered country.

15. Do you anticipate any increase in the demand for labour, from the progressive increase of stock?—I do.

16. Is there not an increasing demand, even at the present moment?—There is; I may mention, that two societies have been formed for the purpose of bringing men from Van Diemen's Land; one at Geelong, and the other at Melbourne. These societies employ agents to bring over men; their passages are paid, and they are kept three days after they have landed at the expense of the society; if they are offered 16*l.* a year, they are obliged to take it, or are thrown upon their own resources; they need not, however, be on shore an hour before they obtain employment; indeed they may, in many instances, enter into engagements before they land from the ship.

17. These men are expiree convicts?—Yes; and men who have obtained pardons for the colonies.

18. Of course you import only men?—Only men.

19. Do you not apprehend serious social evils, from the preponderance of one sex over the other?—I do not.

20. By the *Auditor-general.*] How are these expirees found to answer?—Very well; they are spread over the colony and are very seldom together.

21. By the *Chairman.*] The settlers are impelled by necessity to have recourse to that means of supplying the demand for labour, notwithstanding the consequences that are likely to result from the importation of men of such character, and the inequality of the sexes?—Yes; we want labour, and must have it; we are in that state that we do not care what we get, if we get men; they will either make hutkeepers or something else, if not shepherds.

22. By the *Auditor-general.*] Do you not think the dispersion of these men over the different parts of the colony tends to their reformation?—I think so; it depends a great deal upon the master; with one master, servants will be very bad, while they will be very good with another.

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23. By the *Chairman.*] What should you say is the annual increase of sheep and stock in your district?—When we first settled in the district, and could change the pasturage of the sheep as we pleased, I have known the annual increase to be 80, 90, and even upwards of 100 per cent.; where the sheep have been allowed to lamb twice a year, I have known of a still higher increase.

24. What would be the average?—I should say more than 70 per cent.

25. What number of shepherds could you take a year in Port Phillip?—We could take 2,000.

26. Would there be any indisposition on the part of masters to take married men?—Some would take married men readily, others would not; for my own part, I would rather have single ones; the women do not shift the hurdles regularly, and the men do not like to go far from their huts and their wives.

27. By the *Auditor-general.*] Do you not think the increase of sheep is limited by the extent of land?—I think there is plenty of outlet for us at present.

28. By the *Chairman.*] To what extent; could we double the number of our sheep?—We could more than double it in Port Phillip.

29. By Mr. *Cowper.*] Do you not find married men more willing to remain in service when once they have hired, than single ones?—Yes; single men are constantly shifting about for higher wages; and when they get a few pounds together, they will go to town to spend them; but married men are not so apt to change their situations.

30. What do you think of the capabilities of your district as a field for the employment of agricultural and farm labourers?—I should say the district round Melbourne and Geelong at present could receive some hundreds of agricultural labourers yearly; indeed we are worse off for farm labourers than for shepherds; I am about one of the largest agriculturists in the district, and last year I lost some hundreds of bushels of grain, because I had not a sufficient number of men to get in the crop.

31. Do you think the district of Port Phillip would afford an eligible field for the settlement of small farmers, who might arrive with their families, bringing with them a small capital?—I think there is no part of the world where persons of that class could do better than in Port Phillip; I am agent for several gentlemen who have lands in that district and let out a considerable portion in small farms; many of my shepherds, after they have been a few years in service, have saved perhaps 100*l.* or 200*l.*, and turned farmers on their own account.

32. By the *Colonial Secretary.*] Is the tract of country, of which you have spoken, on the borders of Lake Colach subject to drought?—No, there are regular rains; it was nine years last May since I went to Port Phillip, and during that time we have always had regular rains; I have a farm within 16 miles of Melbourne, from which I have had during the last four years excellent crops.

33. What description of grain did you grow principally?—Wheat, barley and oats; we also grew potatoes.

34. By the *Chairman.*] What is the average quantity of wheat you obtain from your land?—It has averaged 30 bushels an acre.

35. By the *Colonial Secretary.*] And the barley?—Upwards of 40.

36. By the *Chairman.*] You have stated, I think, that you have actually lost your crops from not having labour?—Yes; I could not get men to come to me, though I offered 12*s.* and 13*s.* an acre for reaping, and as much as they could eat and drink.

37. How much can a man reap in a day?—Half an acre; I have known a man cut three-quarters.

38. By the *Colonial Secretary.*] Is the barley grown by you suitable for malt?—Yes; I have sold it for the last three years to Mr. Condell, late M. C., a brewer in Melbourne; it averaged by weight 53 pounds a bushel.

39. What is the weight of wheat per bushel?—It is sold at 60 pounds to the bushel, but it often weighs more.

40. Comparing the quantity of grain grown at Launceston with that grown by you at Port Phillip, what is the difference?—We have grown as good wheat this year as I ever saw grown in Van Diemen's Land.

41. By Captain *Dumaresq.*] Do you find a sale for your oats?—A very ready sale; when I left Melbourne there was hardly a bushel to be had.

42. By the *Colonial Secretary.*] In your district what extent of land do you consider applicable to agriculture?—In addition to the land I have mentioned (from Lake Colach westward), there is plenty of land all round Geelong and Melbourne (thousands of acres), as rich as any land I have ever seen.

43. It is a part of the colony capable of sustaining a dense population?—It could support an immense number of persons; richer land never crow flew over than that in some parts of Port Phillip.

44. By the *Chairman.*] Do you think you could find employment for as many agricultural as pastoral labourers?—I should not say that.

45. By the *Auditor-general.*] Have you calculated at what price per bushel you could afford to grow wheat?—It would pay well if we could get 5*s.* a bushel for it.

46. By Mr. *Cowper.*] Do you not think persons who cultivated their own lands with the assistance of their families could afford to sell for less?—Yes, I think it would pay them as well at 4*s.* as it would pay me at 5*s.*; a man having the assistance of the members of his own family only in working his farm can raise grain at a much cheaper rate than persons who pay for labour.

47. By the *Chairman.*] What do you consider the capabilities of the colony to be as a field for the employment of mechanics?—I should say there is very good employment for mechanics at present in Melbourne.

48. Are the wages of mechanics rising at Melbourne?—The wages of every sort of labour are rising, and unless we get a great many labourers from Van Diemen's Land or elsewhere, stockholders will be obliged to give over breeding, for without labour we cannot go on.

49. Would you object, as having a large stake in the colony, to the Government raising a loan for the purpose of bringing out immigrants, supposing it could be obtained at 3 or 3½ per cent., and the money were scrupulously devoted to the purpose for which it was raised?—I would not, and, speaking for my brother squatters, I do not think one in Port Phillip would object.

50. By Mr. *Robinson.*] Do you not think raising a loan is a much more desirable plan than for the colony to pay away its capital for labour?—I do.

51. By Dr. *Lang.*] Do you think there is any prospect of an immigration fund from the sale of land?—I should say none, so long as the price remains 20*s.* an acre; the Government lately tried to sell some very good land near Melbourne, but not a single acre was sold.

52. By the *Auditor-general.*] Do you not think 20*s.* an acre might be obtained for the rich lands you have described?—Not a single acre would be sold at that price, because sheep farming would pay better than to buy and cultivate land.

53. By Captain *Dumaresq.*] Do you feel satisfied, as a large sheep-holder, to be a tenant; would you not rather be the holder of land?—I would prefer to be the holder of land, because now, instead of improving the land I occupy for myself, I may be improving it for others.

54. By the *Auditor-general.*] Could you form any idea of the proportion that farm labourers should bear to shepherds; in addition to the 2,000 immigrants that you proposed should be sent as shepherds to Port Phillip during the next year, how many agricultural servants could you receive?—About a third of that number.

55. By Mr. *Robinson.*] And the same number of women?—I would not say any thing about them; but I presume, if sent from Great Britain, they would be in equal numbers.

56. By the *Chairman.*] Assuming that the same number of women is sent out as men, and that each couple have one child, that would be about 5,000 adults?—Yes.

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57. By Mr. *Robinson.*] Do you not think, for the next 18 months if 500 additional immigrants, including women and children, were landed at Port Phillip every month, they would find employment?—I think so; I have been speaking of future years, supposing the supply to be continued.

58. By Dr. *Lang.*] Have you any other mode to suggest for effecting immigration to this colony than a loan, under existing circumstances?—None.

59. By the *Chairman.*] Do you think if you were to give every man who pays his passage a grant of land, that would induce persons to come?—I have no doubt it would.

60. By Mr. *Cowper.*] Would it not rather tend to induce employers of labour to come out, than servants?—It would bring population.

61. By Mr. *Robinson.*] Do you not think, if there were a large immigration of labour hither, a number of capitalists would be induced to come with it?—No doubt of it.

62. By Dr. *Lang.*] Do you think Port Phillip presents a favourable field for immigrants from the south of Europe, for the cultivation of the vine and olive, and other productions of the warmer climates?—From what I have seen of the vine, it thrives very well there; the few Swiss that have vineyards on the Barrabool Hills, near Geelong, are doing very well.

63. You think that part of the country would be favourable for the settlement of such people?—I think so.

64. By the *Auditor-general.*] The soil consists in many places of decomposed land, would not that be favourable for the growth of the vine?—I think so.

65. Do you not think, if a considerable number of immigrants were introduced, that the rich land you have described would become saleable at 1*l.* an acre?—Not at 1*l.*

66. Would not immigration tend to raise the price of land?—There can be no question of that; land is worth nothing without people.

67. By Mr. *Cowper.*] Do you not think that a loan for the purpose of immigration would be repaid indirectly by the advantages that would accrue to the Government in the way of an increased revenue?—In a great measure; I think, however, that it is a great pity for such large tracts of fine land to remain unoccupied for agricultural purposes.

68. By Mr. *Robinson.*] Do you not think the parishes in England ought to bear their share of the expense of immigration?—If you could get them to do it, it would be all the better.

69. Would you consider Coolie labour advantageous?—We should prefer European labour if we could get it, but we must get labour somewhere or other; I have paid as much at Port Phillip some years since as 50*l.* a year to shepherds, besides rations, and when flour and other necessaries were high, every shepherd cost me from 70*l.* to 80*l.* Unless we have a large supply of labour, I have no doubt wages will again be as high as 40*l.* a year.

70. By Mr. *Cowper.*] Do you not think the insolvency of many settlers was caused by the high rates of wages they had given in preceding years?—I believe the few squatters that went through the Insolvent Court in our district were driven there by the high rate of wages they had been compelled to give in previous years.

71. Then, if I understand you rightly, even though there should be a return of prosperity to the colony, a great deal of the advantage that might arise would be diverted by the rise of wages, unless some scheme for promoting immigration was carried out?—Yes; I think wages would be as high as they were before.

72. And of course the profits of the squatter would decrease?—Yes.

73. By the *Auditor-general.*] And that would bring about the same ruin?—Yes.

74. By Mr. *Cowper.*] Is there any large number of men in Van Diemen's Land likely to obtain conditional pardons?—I understood, when I called at Launceston, on my way to Sydney, that there would be no difficulty in obtaining 500 men from the neighbourhood of Launceston for Port Phillip.

75. Supposing they were taken off, there would, I presume, be no continuous supply?—Mr. Sinclair, of Launceston, informed me that there would be many getting conditional pardons yearly, who could not obtain employment in Van Diemen's Land, and would have to leave the island.

76. By Dr. *Lang.*] Would it not be unfortunate for the colony if a large number of that class of men were imported into it for some time to come?—Yes; if we could get free immigrants from home, we should much prefer them.

77. By Mr. *Cowper.*] The number of men furnished by Van Diemen's Land would be divided among all the Australian colonies, I presume?—Yes, Port Phillip, South Australia and this part of Australia.

78. By the *Auditor-general.*] Do you know many instances where immigrants, who have come out as labourers, have succeeded in establishing themselves as farmers, stockholders or landowners?—Yes; several men in my own employ have done so.

79. Are there numerous instances of that kind?—I have known a good many.

80. By Dr. *Lang.*] Are there not some instances, at Port Phillip, of persons who have come out in the class of immigrants who have accumulated from the high rate of wages so much as to be able to buy their masters' property?—I have known some instances where, if the servant has not been able to buy his master's property, he has been able to buy sheep, and to commence on his own account; the best man for the squatter was he who went into the town and spent his money as fast as he earned it, for he had then to come back again either to his former master or to some one else; there is not a shepherd in the district who might not have been his own master if he had saved his money.

81. Do you think if there was a continuous flow of immigration into the colony, that unfortunate state of things would be prevented?—I think so.

82. In such a case, do you think it would be desirable that persons who commenced as servants should become holders of sheep and cattle on their own account?—I think so.

83. By Mr. *Robinson.*] You think, if the labouring population generally in Port Phillip were to abstain from extravagance, they might become independent?—They might all become so; I have known many immigrants who have saved money and taken farms; I have also known not a few instances of persons of this class clubbing together for the purchase of sheep or other stock, till they were able to divide it and go each upon his own hand; in one instance, two brothers joined together and purchased a few sheep; one shepherded while the other kept the hut; they thus managed the sheep between them, and they are now men of property; the men from Van Diemen's Land very seldom save money.

Robert Graham, Esq., called; in and Examined.

R. Graham, Esq.

1. You are a merchant in Sydney?—I am.

2. And are also connected with various pastoral establishments in the colony?—Yes, both as a principal and as the representative of others; the district I am more particularly connected with is Moreton Bay.

3. Have you been at Moreton Bay?—I have lived there, and have been there several times since.

4. What is your opinion of that district of the colony as a favourable field for immigration?—I think it would afford a large field for immigration from the mother country.

5. Do you think it is capable of supporting a large population?—I do; I think it much more capable of supporting a large population than the land on the Hunter, which is the only part of the colony that I am intimately acquainted with, on account of the periodical rains; the climate is more regular there than here.

6. What is the present rate of wages in the district; is it advancing upon former rates?—When I was in Moreton Bay, in February last, I made a calculation with Mr. Mackenzie, Mr. Balfour, and my brother, and took

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took the average wages paid by each, from which it appeared that my brother paid 20*l.* a year, some odd shillings, to each of his men; Mr. Balfour 21*l.* odd, and Mr. Mackenzie 25*l.* odd.

7. Was that a considerable advance upon the previous rate of wages?—No, for the district has always been in want of labour, and wages have risen since that; the reason that my brother paid the lowest wages was, that I had engaged a portion of his men in Sydney.

8. Do you anticipate any advance in the rate of wages?—Yes, decidedly; Mr. Balfour states in a letter to me, that there is scarcely a station in the district which is not from three to four men short-handed.

9. Do you think the increase in the rate of wages is likely to be considerable?—So much so, that we are now giving free passages to labourers from Sydney to Moreton Bay (120 having been already sent), to be repaid by the settlers, by a voluntary impost upon the stock, to meet the present demand for labour.

10. By Captain *Dumaresq.*] Is wheat grown at Moreton Bay?—In some parts; the only navigable part of the River Brisbane upon which, to my knowledge, it has been tried, is at Limestone Government sheep station, and I have never heard of a failure of crops.

11. By the *Chairman.*] What do you think of the country as an eligible field for small farmers?—I think it is more likely to yield a certain return to the agriculturist than any other part of the colony, but it is to be remembered, that I am only acquainted intimately with the Hunter's River district, as far as Patrick's Plains.

12. Do you think a small farmer coming from England, with say 200*l.* or 300*l.*, and settling upon a farm of 150 or 200 acres, which he might cultivate with the assistance of his children, would have a good prospect of success in that part of the colony?—All would depend upon the price of land, the distance from market, and the convenience of water carriage.

13. Assuming that he settled on the alluvial flats of the Brisbane?—I have no doubt he would make it pay.

14. Do you think he ought to give 1*l.* an acre for the land?—That, of course, would depend upon whether the land was thickly timbered or not, also upon the distance from water carriage; if he had to be at the expense of clearing a dense scrub, or incurring a heavy land carriage, he could not afford to pay that price.

15. Can you suggest any means by which the want of labour at present experienced is to be met?—Government might partly meet the expense of immigration by the sale of land, as the principal amount that has as yet been raised has been from the sale of town allotments.

16. What do you think could be raised by the sale of lands in the colony generally?—I am not prepared to answer the question.

17. Would you have any objection to see a loan raised in England, secured upon the land of this colony, for the purpose of bringing out immigrants?—I think it would be very desirable, if obtained at a moderate rate of interest.

18. Then, in the event of immigration being resumed, would it not be desirable to have the number required landed at Moreton Bay without their coming to Sydney at all?—Decidedly.

19. By Dr. *Lang.*] Do you think Moreton Bay would be a favourable field for the production of those articles raised in warm climates, as the vine, the olive and other productions of the south of Europe?—Very favourable; the vine, pine-apples, and bananas thrive in that district.

Friday, 29 August 1845.

Present:

CHARLES NICHOLSON, Esq., M.D., in the Chair.

The Auditor-General.	Dr. Lang.
Mr. Cowper.	Mr. Lowe.
Captain Dumaresq.	Mr. Murray.

Thomas Walker, Esq., called in; and Examined.

T. Walker, Esq.

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1. You have resided in this colony for a number of years?—For upwards of 20 years.

2. And have had opportunities of becoming extensively acquainted with the character and wants of the country?—Yes.

3. Do you consider this colony a favourable field for immigration generally?—I certainly do.

4. Do you think it capable of supporting a considerable population?—I do.

5. What parts of the colony would you particularize as presenting the most eligible localities for settling immigrants?—Throughout the interior a considerable population may be maintained by pastoral pursuits, and the coast districts are capable of maintaining a very large agricultural population; there is a great variety of climate.

6. Are there not large alluvial tracts on the banks of some of the larger rivers of this colony, which would support a very numerous population?—Undoubtedly there are.

7. Could you specify them?—There are large alluvial tracts, beginning at the northern part of the colony, on the banks of the Brisbane, and other rivers in the Moreton Bay district; then there is the Richmond River, the Clarence River, the Nambucca River, and their various tributaries; coming along towards the south, there are the Macleay, the Maria, the Wilson, the Hastings, the Manning, and the Hunter Rivers.

8. What do you think of the valley of the Murray, the largest of our rivers, 2,000 miles long?—That is in the interior.

9. Then there is the Bega country?—Yes; and I could not think of finishing my enumeration of agricultural tracts without including Australia Felix, in which district there is an immense extent of country suitable for agricultural purposes, and for the maintenance of a dense population, and which has been so well described by Sir Thomas Mitchell, the Surveyor-general of the colony, as "a region more extensive than Great Britain, equally rich in point of soil, which now lies ready for the plough in many parts, as if specially prepared by the Creator for the industrious hands of Englishmen;" and there is the whole of Gipps' Land, of a similar character.

10. You have seen various parts of the globe; do you think the district of Port Phillip (Australia Felix) is equal to the average of European countries, with respect to its capability of supporting a population?—Yes, in point of soil; the great drawback is the deficiency of surface water; the country, in my opinion, is capable of maintaining a much larger population than we are likely to have in it for centuries to come; and when it has been peopled to a certain point, artificial means will be resorted to, to secure an adequate supply of water.

11. And inferior land might then be brought into cultivation?—Yes.

12. Can you state what is the general rate of wages throughout the colony for pastoral labour?—From 16*l.* to 20*l.* per annum, with food and lodging, &c.

13. Do you think that rate is increasing?—Certainly, it is.

14. And likely to go on increasing?—Yes, I have no doubt of it, unless we have a fresh supply of immigrants.

15. What

15. What would you regard as the probable consequence of a progressive increase in the rate of wages?—It would lower profits and retard the accumulation of capital, check the advancement of the colony in the arts of civilized life, and tend to cut off all the advantages which the possession of wealth affords to a country; and upon the labourers themselves high wages have a demoralizing tendency.

16. Will not flockmasters be compelled to destroy their sheep?—The aggregate number of the flocks will not be allowed to increase; the flockmasters, however, will not destroy, but convert; they will not keep a larger number of sheep than will be profitable to them.

17. You are now speaking more particularly with reference to pastoral labour?—Yes; for some time to come, I think, the production of wool and tallow will be chiefly attended to; sheep farming is the most ready means of employing capital and labour in this country to advantage; until the profits of that pursuit are much lower than they are now, it will be the principal one.

18. With regard to agricultural labourers, have you any thing to state to the committee?—I do not see much probability at present of our raising agricultural produce as an export; I do not see very clearly what agricultural produce we could raise to compete with that of other countries in the general market of the world.

19. By Mr. *Cowper*.] Do you not think, if our wheat could be introduced into England upon the same duty as Canadian wheat, we might raise it as an article for export?—The distance is very great to England.

20. Still, if it produced 4*s*. or 5*s*. per bushel there, as a minimum price, it would pay?—If it netted that, it would pay, no doubt.

21. By the *Chairman*.] Are you prepared to suggest any means by which the want of labour can be supplied?—None, excepting that of introducing labourers from foreign countries, where population is redundant.

22. Where are the means to come from to effect that object?—I have thought a great deal on the point for many years, and I believe the country might safely borrow to introduce labour; prudently managed, I think it would be a safe measure. Upon this subject, I would beg leave to submit to the committee a copy of a statement of my views, made to a committee of the old Council in 1838, at which time I first suggested the measure of borrowing money to enable us to introduce labourers.

23. How would you secure either the payment of the interest or the repayment of the principal; upon what security would you borrow?—Upon the security of the public waste lands of the colony, and its general resources.

24. Suppose the interest of that loan were made the first charge upon the revenue?—I should have no objection to that, by way of giving confidence to the lenders.

25. From what source would you repay the loan?—From the general resources of the country; but by what specific imposts I should raise the money, I am not now prepared to say.

26. By Mr. *Lowe*.] From the land fund?—Yes; I should consider the public waste lands one of the principal resources of the colony for the repayment of such a loan, and I should be inclined to tax all land for the purpose of introducing labourers.

27. By the *Chairman*.] Do you think it would be fair to tax only the settlers in the interior for that object which would be of infinite advantage to all classes of society?—I have said, there are many things to be taken into consideration; land would be one of the sources of repayment, but I am not sure that it should be the only one; I think I should be inclined to tax sheep and cattle also; various classes would be benefited, and my object would be to apportion the burden fairly.

28. Do you not think the shopkeepers and merchants of Sydney might bear their portion?—I look upon them as being the mere servants of the producers of the colony; if you tax them, it comes at last upon the producers of the country; I should endeavour to get hold of a principle by which those who had the benefit should bear the burden.

29. Do you think the lands would sell, so as to provide a fund to meet either the principal or interest of the loan?—I think a revenue might be derived from the land for the purpose of introducing labourers; I do not think much revenue could be derived from the public waste lands, except for the purpose of supplying labour, or for effecting such improvements as would directly add to the value of the land.

30. Supposing such security could be given as would satisfy the English capitalist, at what rate of interest do you think a loan might be obtained?—Upon the security of the colony itself, I think it might be got at a moderate rate, say five or six per cent. to begin with; and if capitalists found that the interest was regularly paid, it might be had subsequently at a lower rate.

31. Do you see any reason why the Government should not do for us what they did for Canada; we might then give our guarantee for the payment, and have the guaantee of the British Government?—I should be disposed to hope that the British Government would assist us, believing that we could make out a good case, and that they have an interest in the matter as well as we.

32. By Mr. *Cowper*.] Under those circumstances, do you not think a loan might be obtained at three and a half or four per cent.?—Yes, with a guarantee from the British Government.

33. By the *Chairman*.] Do you think any portion of the expenses of immigration might be contributed by the Government or by the parishes at home?—I think something might be got out of them; it has occurred to me, that if we were to give bounties, or to pay the passage of a select class of persons, that class which would be most suitable for us, and to give a smaller bounty to other parties not so desirable for us, that for the sake of getting rid of an aggregate mass of people of all ages, the parishes and the home Government would assist us with a certain amount to enable the emigration to take place.

34. What sum do you think we might contribute, calculating that the necessary sum would be made up, either by the home Government or by the parishes?—It is very easy for us to deal with the money of the parishes, but I fear we should not get much from them; in the first place, I think the population they would desire to be rid of would not be a very desirable class for us.

35. By Mr. *Cowper*.] You think there might be a danger, if we applied to the parishes, of their sending an inferior class of persons, which it would not be to our interest to receive?—I would not trust them: I would define strictly the class of persons we should be willing to pay for; the people they might send would be useful to a certain extent, but I do not think it would ever suit this country to expend a large amount of capital for the purpose of importing any but young adults.

36. By the *Chairman*.] What number do you think it would be desirable for us to receive in the year, say for the next three years?—I might mention a number, but I should not think of determining the particular number beforehand; I would be guided by the rate of wages prevalent in the colony, in determining on the number of labourers to be from time to time imported.

37. Would you not be guided by the rate of increase of the stock of the colony?—The rate of wages should be the index; I should wish the labourer to have an abundance of the necessaries of life, and a moderate money wages; I think the country could afford that.

38. You have not calculated the number that the country could take?—I have not; I would rather be under than over, and I should, therefore, say, 2,500 male adults, and the same number of females for the first year; I would rather err on the safe side, if it be an error, and ask no more to begin with.

39. What do you think of introducing two or three ship-loads of women into the colony?—If there is a demand for female servants, I would by all means introduce them, because then the male servants would become available for out of door employment.

40. But on the score of equalizing the sexes?—I think the equalization of the sexes is going on very fast through natural causes, and we must not leave out of consideration, that it is labouring persons we want.

41. By Captain *Dumaresq*.] There are now more male than female domestics in the colony, are there not?—I cannot say as to this.

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42. By Mr. *Murray.*] Do you know the number of sheep we have in the colony at present?—In round numbers, I should say, between 5,000,000 and 6,000,000.

43. What would you estimate the annual increase by births?—Probably one-third.

44. What should you say would be the annual decrease by deaths?—I think not less than one-sixth; I am merely giving a random opinion, but I should say there would be about one-sixth of permanent annual increase, if we chose to give full play to the powers of increase, and killed off only the aged animals.

45. What number of men would be required for each flock of 1,000 sheep?—I should say three at least as shepherds, watchmen and auxiliaries.

46. You think an annual importation of 2,500 men would be sufficient for all purposes?—When I fixed that number, I said I would rather go on cautiously and feel my way; I would first make the experiment with that number, and await the effect; I do not say that is the maximum number we should require, far from it; but I would rather not determine above six months in advance; I would observe the effect of immigration as it went on, and be guided according to its effect upon the rate of wages.

47. By Dr. *Lang.*] Have you travelled over a considerable portion of the Port Phillip district?—I have.

48. What is your opinion of the eligibility of that country for the settlement of an agricultural population?—I think it is particularly well adapted for an agricultural population; the climate is better there than in this part of the colony; they have more rain.

49. Do you think, if any arrangement could be made for the introduction of families at their own cost, to establish themselves in that district as small farmers, they might grow grain for exportation with success?—Yes, I think it is very probable they could, as so much of the land there is naturally clear and fertile, requiring but little expenditure of capital to render it productive.

50. Comparatively speaking, then, you would say they might be brought out, and might occupy land to any extent?—Yes; the climate is fine, and the wants of a rural population would be few; they would be content with moderate returns; their condition would be far better than that of a vast number of people at home.

51. By Captain *Dumaresq.*] Can you state what price a merchant would be disposed to advance upon wheat?—Shipped to England, not more at present than about 3*s.* a bushel; the rate would be very fluctuating; in the English market we should have to compete with other countries, for it seems probable that the English Corn Laws will be relaxed ere long; we should have to compete with India for instance, where wheat is grown at a very low rate, as well as with America.

52. By Mr. *Lowe.*] Is not the wheat grown in India very bad?—It is of various qualities; I have seen excellent samples of Indian wheat.

53. By Mr. *Cowper.*] Can you state, from your own experience, whether there is now much difficulty in hiring agricultural servants and shepherds?—There is a growing difficulty.

54. Do you think, if the impression gains ground that immigration is discontinued for an indefinite period, it will tend to increase the rate of wages?—No doubt of it; but there is a more influential cause for an advance of wages, in the fact of an actual deficiency in the supply of labourers; there is a necessity for immigration, if you wish to maintain the present value of colonial property.

55. When you said you would be unwilling to run the risk of introducing too many, was it from the fear of having persons out of employment, or because you think the country cannot afford to pay for a large number coming in?—For both reasons; I should be very careful of the interests of the immigrants, both on their own account, and lest they should have reason to be dissatisfied with the wages, and, writing home to their friends, create a prejudice against the colony; I should also be apprehensive of pledging ourselves to too great an extent.

56. What is your opinion of Lord Stanley's Act, which provides, that half the proceeds of sales of land should be spent in immigration?—I think, for want of its going further in a right direction, and determining that the whole amount should be expended in immigration, or in objects directly tending to improve the value of the land, it will hinder sales; I think the minimum price it puts on the land is too great a tax, unless the whole amount were to be judiciously expended in supplying labourers to the purchaser.

57. By the *Auditor-general.*] With reference to your fear lest the immigrants should be unable to obtain employment, do you think, looking to the flow of immigration into this colony in 1840, when 40,000 immigrants arrived, of which number very few are out of employment, there could be any fear of introducing double the number of immigrants you have mentioned?—No doubt employment could be found for double the number I spoke of; but I had regard to the prudence of involving our capital.

58. By the *Chairman.*] We are speaking of a loan?—Yes; but the money would have to be paid ultimately.

59. By the *Auditor-general.*] Do you not think a loan laid out in this way would pay itself, in the first place, by increasing the value of land, and by the revenue these individuals would contribute?—Unquestionably by introducing labourers who can be profitably employed, you will give a greater value to land, and will increase the public revenues, and in this way means for repayment of the loan may be provided, but not within the short time you speak of; as the debt will be due to a foreign country, it could only be paid with exportable produce, unless, as I believe would be the case, foreign capitalists would ultimately come here as settlers to buy the land, and thus enable us to discharge the debt. The advantage of having the labourers would enable us to raise profitably additional exportable produce sufficient to meet easily the interest.

60. Supposing we were to confine ourselves at first to a loan of 500,000*l.*, would there be any difficulty in paying the interest of that, say 20,000*l.*?—No; the additional quantity of wool we should be enabled to grow by having the labourers, would alone pay it, as well as all the other expenses of growing the wool; it may be said, "Why, then, should it not be left to individual flockmasters to import, at their own expense, the labourers they require;" but the objection to that is, that were they to do so, others who had borne no share of its cost might reap the advantage of the measure.

61. By Dr. *Lang.*] Do you conceive it would be of any importance to the colony whether, in the event of such a loan being contracted, the interest of it were payable from the land revenue or the ordinary revenue; supposing one-half of the land revenue were devoted to the ordinary purposes of the colony?—Perhaps, instead of answering the question, you will allow me to state, that I think the interest would be best provided for out of the rents derivable for the use of the public waste lands, and by a tax upon property; for in this way it seems to me, that the expense would be made to fall upon those who would be more immediately and directly benefited by the loan.

62. By Mr. *Lowe.*] Practically speaking, do you think, if we did borrow this money we should be allowed to dispose of it; would not the British Government take the management of it into its own hands?—I would not contract the debt without the most perfect assurance that we should have the control over the money.

63. Do you think practically that is likely to be conceded to us?—I always have hopes, if a thing be just, that the home Government will not permanently withhold it from us.

64. Adverting to the land fund, which is held to be at the disposal of the Lords of the Treasury?—There are, no doubt, difficulties in the way, but I would not contract this loan except upon certain conditions.

65. After the opinion you have expressed with regard to the propriety of the mother-country bearing a share of the expense of immigration, do you not think it absolutely necessary that we should have the control of the loan, we being in the condition of the contracting parties?—I would not pledge the credit of the colony in any way, unless we had the control.

66. I apprehend, if we raised this loan, and placed it at the disposal of the mother country, we should not have much chance, either of the Government or of the parishes, paying a farthing?—I think not.

67. By the *Chairman.*] Do you think, from your own experience of the home Government, they would give

give us the control?—I think we should have a great battle to fight about it, and that the sooner we begin the conflict the better.

68. By the *Auditor-general.*] Is it not your opinion, that the whole revenue of the colony should be pledged, if we want to get a loan on advantageous terms?—It is.

69. If the land revenue is to be appropriated to the general good of the colony?—Yes.

70. Could you obtain a loan without giving the best security?—Not upon advantageous terms. If we had the control of the land revenue, I would not only pledge that, but all the property of the colony; I would make it a national debt; and endeavour to discover how the interest could be raised, so as to make the burden fall justly on those who would be benefited by the loan.

71. Is there any class who would not be benefited?—Some classes would be benefited more than others. If the object be to make this colony wealthy, and to maintain in it gradation of rank, then I think the loan desirable; but if it be intended to have the whole community on a medicore level, then we had better have no loan.

72. By the *Chairman.*] Do you think country lands would ever sell at 1*l.* an acre?—Yes, if you will only establish, in the colony, an adequate population. I have already said I consider the land of fair average fertility.

73. Have you not also stated, that you think the colony could never export agricultural produce?—When I answered the question put to me on this point, I said we would not resort to agricultural pursuits, while pastoral pursuits paid so much better; but if wool-growing did not pay better, I do not see why we should not grow grain, or other agricultural produce.

74. Then do you think agriculturists would go 16,000 miles to pay 1*l* an acre for land, when they can go to Canada, and purchase it for 5*s.*?—Yes, if a greater profit can be made in the one case over the other; agriculturists will not consider the mere price of land, but what income they can derive from their capital invested in it.

75. You have just admitted the difficulty of exporting grain?—Yes, so long as other pursuits pay better; there land is clear, and I am assuming that it will be adequately peopled.

76. The prairie lands of America are also clear, with the advantages of water navigation?—But here we have a British community, and the protection of British laws.

77. Do you think a settler ought to pay 300. per cent. for these advantages?—He will not pay more than they are worth.

78. Could he not go to the Cape?—Yes, but I think he would not have labourers there.

79. Why not import labourers at the Cape as well as here?—I grant you he may, but that would be equivalent to a high price for land; I am not asking you 1*l.* an acre for the land, but am asking you to contribute to a labour fund, in order to make the land valuable, by giving you the land for nothing.

80. Suppose a man comes from Yorkshire, a small farmer with his family, having a capital of perhaps 200*l.*, and he buy 100 or 200 acres of land, his object is not to get labour, as he will employ his own family upon his farm?—In such a case, you would pay his passage with the money he paid you for his land.

81. I am supposing that he pays his own passage?—But under my plan, he is entitled to have his passage paid, and he would then have the capital which his passage would have cost, to purchase land with.

82. I am taking a class a little above that, men who might not choose to bring out their families as steerage passengers?—In devising a general system of this kind, you cannot meet every particular case that may occur.

83. By Mr. *Lowe.*] Do you not think there is a considerable difference between an old and new country, the object in an old country being to get the greatest gross return, while in a new country it is to get the greatest net return; what we want here is to have high profits, is it not?—The only object of pursuit here, is the acquisition of wealth.

84. That is to be attained by high profits, and by high wages to labourers; therefore, the holding out the hope of obtaining a subsistence here, would not be a sufficient inducement?—You need not borrow this money, if you merely want the people of the colony to subsist, and to eat and to drink only the produce of the colony; but I apprehend the object in view is the accumulation of wealth.

85. By the *Chairman.*] We all wish to see the country populated, and to have a happy people around us?—I do not think, unless we import labour, we can be a rich community; but we may have a rough abundance of the mere necessaries of life.

86. Do you think the inhabitants of this country will ever acquire their true political rights as British subjects, unless we have an increased population; if our numbers were doubled, should we not have a more commanding position in the eyes of the mother country?—Yes, if we had wealth in proportion.

87. Do you think the home Government are receding from what we conceive to be their unjust pretensions?—I think if we persevere, and make out a good case, we shall obtain what we are entitled to

88. By Mr. *Lowe.*] Do you think having a large poor community would give us any additional weight with the home Government?—I do not think a large poor community would be anxious about politics; they would only care to vegetate.

89. By the *Chairman.*] Supposing you get such a community as America, neither rich nor poor, where the middle class is predominant?—In the United States, the people are as anxious to acquire wealth as any people can be, although, no doubt, the accumulation of wealth is retarded by the great extent of land in that country in proportion to people; if we do not continue to introduce labourers, this colony will retrograde in wealth, and society will recede towards a state of barbarism.

90. By Mr. *Lowe.*] It would be a retrograde state of society, like that of the back woods of America?—Yes; and unless an effort be made, we shall soon be reduced to a very primitive condition. Do what we will, the tendency will be in that direction; settlers will not be able to live in or near the towns upon the net income from their lands and flocks in the country.

91. By Dr. *Lang.*] You have alluded to the desirableness of having the management of any fund that might be raised for the purpose of immigration in the hands of the colony; are you aware that the class of labourers introduced by the Government was inferior in point of character and usefulness to the class introduced by private speculators?—I think there was latterly more attention paid to the selection of parties than there was at first, and that the immigrants continued to improve as we continued to introduce them; those who came last were perhaps the best selected; but from its very nature, the system of introducing immigrants under bounties is better calculated than the other to furnish us with the most desirable classes of immigrants, for under it no payment is made until the persons are landed in the colony, and found to be precisely of the class stipulated for in the regulations. It would be entirely our own fault if we paid for such as were in any respect unsuitable.

92. Do you think, from your knowledge of the colony generally, but more particularly of the southern districts, that it would be favourable to the raising of those productions which are peculiar to the south of Europe?—I think there is no part of the colony that would not be favourable for raising those productions. The climate of the northern districts is of that kind which produces the vine, the olive, the orange and other semi-tropical fruits.

93. Supposing it were practicable, do you think it would be desirable for the advancement of the colony generally, that encouragement should be held out for the immigration of families from the southern states of Europe?—Certainly I do, inasmuch as the climate of the colony is suited to the production of those articles, in the culture of which they could instruct us.

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94. Are you aware that there is a very extensive emigration now going on from the southern states of Germany to the United States?—Yes.

95. And you think it would be desirable to deflect a portion of that emigration towards this country?—Yes, I think it would be desirable to have Germans, not only on account of their knowledge of some branches of agriculture with which our own countrymen are unacquainted, but because of their industrious steady habits; they make excellent settlers in a new country; there might be an objection made to them by the mother country, but as they would bring along with them a knowledge of arts suited to this country, of which we are ignorant, they would be a very desirable class. Viewing the little probability of our ever being able to obtain from England an adequate supply of shepherds, I would strongly urge on the committee, the propriety of endeavouring to induce the Government of British India to abrogate the law which restricts the personal liberty of the native labourers of that part of the British dominion, so far as to prohibit them from emigrating to this. There cannot be a doubt, that these people would greatly improve their condition by coming amongst us, and that we should find them most serviceable as shepherds; yet these two great advantages are withheld from the respective parties by the extraordinary law to which I have alluded.

William Augustus Miles, Esq., J. P., called in; and Examined.

W. A. Miles, Esq.

1. You are the Chief Commissioner of Police?—I am, for the city and district of Sydney.

2. And have filled that office for several years?—Since 1841.

3. Have you had an opportunity of seeing much of the condition of the labouring population of this colony?—My knowledge of the labouring part of the population is chiefly confined to my own district.

4. You know very little about the state of the rural population?—Very little, not having had much opportunity for personal observation.

5. With regard to the state of the population in towns, what would you say is about the rate of wages?—The rate of wages is gradually on the increase, nor do I anticipate any likelihood of a decrease at present.

6. Do you allude to mechanics?—To mechanics of all classes, and to labourers generally.

7. Are there not many men out of employment?—Not many; those who are unemployed are chiefly connected with building; that class of mechanics have suffered the most lately.

8. I presume you have sufficient information respecting the colony to be able to say whether you consider this an eligible field for immigration?—I consider it a splendid field for immigration, and better than peopling America with our population. The number of emigrants to America, in 1842, amounted to 63,852; of which number, probably, a great many were parish paupers, who have now become consumers of British exports, and contributors to the wealth of another nation. In 1841, the proportion of paupers to population, in England and Wales, was nine per cent. The declared value of British produce and manufactures exported, even to China, amounted to 969,381 *l.*, and to these settlements, young as they are, the value of exports was 916,164*l.* In 1842, the number of paupers amounted to 1,309,311, and the cost of maintenance was 4,036,453 *l.* Millions could be saved in money, and thousands from wretchedness, if emigration would flow to our shores.

9. You have seen a good deal of the condition of the poor in the United Kingdom?—I have seen a good deal, from having been connected with various commissions at home.

10. Are you of opinion that the redundant population of England would improve their circumstances by coming to this colony?—Most undoubtedly; they would, to say the least of it, change their condition from starvation to an abundance of food, independently of wages, lodging and clothing

11. And would have a better climate?—I think climate is no object to a man who is starving.

12. Do you anticipate any increase in the demand for labour?—I do; I hear that wages are on the increase in the interior, consequently I expect there will soon be a greatly increased demand: moreover, the immigrants who arrived by the last few ships have all been engaged, and I believe no family had to come on shore before they were engaged.

13. Have you any suggestions to offer as to the best mode of effecting immigration?—I think an arrangement could be made, and ought to be made, so that the parishes might assist; I know that it has been done to a small extent by some parishes; the expenses should be divided among the various parties, as I proposed to the Immigration Committee that sat three years ago.

14. Do you think the people at home would be disposed to fall in with such an arrangement?—It would be advantageous to the parishes; I know of one parish in Gloucestershire that went to considerable expense in emigrating their paupers to Canada, but I heard that at the expiration of a few months, some returned to their parishes; if they had been sent here they would not have returned, unless they had been tolerably well off: when I first came here, immigration appeared to be on too copious a scale—it was too sudden, inasmuch as I saw that the immigrant barracks were full, and the poor people were many of them living in tents about the barracks, and were in great distress; these parties would write home unfavourable accounts, stating that they could not obtain employment, and that would naturally influence the minds of their friends and others who might previously have been disposed to emigrate; of late, the supply has been smaller, and the immigrants have been engaged as I have previously stated, without any necessity for their coming ashore to seek for engagements. I should propose, if immigration is to be carried on upon a steady scale, that Government should know where to forward the people when they arrive, and that every facility should be given to locate the immigrant on the ground of his future labour, and in case the poor immigrant should not be engaged immediately on his arrival, Government should find some public employment in the country districts at a low rate of wages, to keep him from despair; the less the immigrant mixes with town people, but more especially with the people of this city, the better for the labourer and his future employers.

15. What would you think of importing two or three shiploads of women?—Women servants are exceedingly in demand; well-conducted girls soon become wives, and a well-regulated supply of female immigrants would be desirable. I have long been anxious for the introduction of bee-hives into the interior, inasmuch as they would be an advantage to married labouring men with children; I think settlers would have less objection to take families, if the wife and children could be made useful, and they could be most advantageously employed in taking care of the bees; the men would be able to buy tobacco and other little luxuries with the proceeds of the wax and honey, and thus save their wages; moreover, honey and wax would become valuable exports of the colony. In 1843, the quantity of bees-wax imported into England from other countries was 80,000 cwt.

16. By Mr. *Cowper*.] Are you not aware that they are now being carried into the interior?—Yes; I have taken considerable pains on the subject, and I was not surprised when it was reported to me about six months ago, that some bee-hives had been stolen; they were "up" in the market, and it was a good sign.

17. What is your opinion of the introduction of the silkworm?—My great doubt as to the silkworm is, that there is not sufficient labour to attend to them. Hops, I think, might be grown with advantage, and would be valuable as an export.

18. Was there not, during the last year and the year preceding, a great deal of distress among the people of Sydney?—There was a great deal of alleged distress, but there was not really so much as was stated, the outcry arose more from faction, and from the desire of a few men to become the political leaders of the working classes, more than from actual distress; there was more waste than want.

19. Is there now any appearance of distress?—No, I made the strictest inquiries into the subject during the alleged time of distress, and as I have seen much of the distress among the working population of England, upon a comparison of the two countries, I should say the people are not distressed; wages are better now, and men can earn enough in three or four days to keep them for the rest of the week, if they choose to idle their time.

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time. I have been told by working men themselves, that the distress has been among those who did not choose to work, or, to use their own words, "among men who pretended to ask for work, and hoped they should not get it."

20. And you have reason to believe it was so?—I have. There has been distress among some classes; I have already said, those classes connected with building have suffered the most. My test of poverty is the quantity of crime committed in a town; for when wages fall to a certain low rate, men go to thieving.

21. By the *Chairman.*] Do you find crime on the decrease now?—Yes; men are now employed.

22. And the circumstances of the colony, both as regards the labouring classes and capitalists, are reviving?—Yes; and in such a steady healthy manner, that I think prosperity is likely to continue for some time to come.

23. Have you sufficient colonial experience to say what number of immigrants you think might be introduced annually?—It would be exceedingly desirable to limit immigration to the demand for labour. I should propose some standard or standards; I think one standard would be, to calculate the increase of stock; and another safe standard would be, to take the rate of wages.

24. By Captain *Dumaresq.*] Settlers will increase their stock as long as they can get cheap labour?—Yes, and as it is requisite to have a test, I think that would be the best.

25. By Dr. *Lang.*] Supposing the principal description of stock in the colony, sheep, were increasing at the rate of a million annually, what number of immigrants should we require?—I am not sufficient grazier to be able to say how many would be required to attend them.

26. Do you think the Poor Law Unions at home would be disposed to co-operate with the colony?—I have every reason to think they would, because it would be to their interest.

27. From what source do you think they would derive funds?—I think the Commissioners have power to sanction a rate for two or three years for a specific purpose, the guardians would be happy to get rid of their paupers, and the paupers would be no less happy to get out here.

28. You are aware that there are many young persons in the charge of the poor law guardians?—Yes, both males and females.

29. Do you not think it would be desirable to have a portion of such youth sent out to this colony?—I doubt whether it would; I think it would be more desirable to have working people, than to have the trouble and risk of training young persons.

30. I am speaking of youths not under 12 or 13 years of age?—I think we could obtain a sufficient class of working men, a class that are in great distress in England and Scotland, and who, I understand, make excellent shepherds. I refer to hand-loom weavers; many of these men, with the assistance of their families, can now earn only 8*s.* or 10*s.* a week in England; but if they were to come out here, and if even there might be a temporary overplus of pastoral labour, these men and their families would turn themselves to the weaving of our wools, so that we might by these means have cottage looms at work all over the country, and there would be no redundance of labour, even if the weavers came out here in any quantities.

31. You think the class of weavers would be easily convertible into shepherds?—I am told they make the very best of shepherds, and they are a suffering painstaking class of people, not addicted to daring crime or hardened theft; during my inquiries in England I did not find that they committed offences in order to obtain the means for riots and debauchery (the usual inducement to the wicked); occasional pilferings arise, but, in many cases, from actual hunger and distress.

32. What class of weavers?—Any hand-loom weavers; the trade is easily learned, and children might be set to work at it in all parts of the colony.

33. Do you think it would be desirable to hold out encouragement to the agriculturists of the south of Europe to immigrate to this colony, for the purpose of cultivating the vine and other productions of warm climates?—I think it is desirable to get working hands from any place we can, and if they bring with them the knowledge of arts peculiarly adapted to the colony, they are still more valuable; I think that the cultivation of the olive will prove of great importance to the colony, but our resources will only be developed by a population approaching to redundancy; I anticipate that the fisheries will, hereafter, employ numbers of men and shipping, although at present there is not a single trawl-boat in the colony.

Tuesday, 2 September 1845.

Present:

CHARLES NICHOLSON, Esq., M. D., in the Chair.

The Auditor-General.	Rev. Dr. Lang.
Charles Cowper, Esq.	Robert Lowe, Esq.

Thomas Barker, Esq., called in; and Examined.

T. Barker, Esq.

2 September 1845.

1. You have resided in this colony for a considerable number of years?—I arrived in the colony in 1813; I have been out of the colony about three years since that period.

2. You have been, and still are, largely interested in pastoral and agricultural pursuits?—Mercantile, pastoral and agricultural.

3. What is your opinion as to the present supply of labour?—I do not think the supply so very deficient at this moment, but there is every appearance of an approaching scarcity; I do not think a sufficient supply can be kept up by natural increase, to meet the wants of sheep farmers and agriculturists.

4. How do you mean it cannot be kept up?—It cannot be kept up, unless some scheme of immigration be adopted; we have not within ourselves the necessary supply for the continuous increasing demand for labour.

5. Have you found any increase in the rate of wages of late for shepherds and stockmen?—I have not; but I have fewer applications for employment at my mills in Sydney now, than I had some months back; at that time scarcely a day passed without a number of applications being made to me.

6. What do you consider would be the annual demand for labour from the annual increase of stock?—If the proprietors of sheep and cattle were to continue to increase their numbers, of course the demand for labour would be excessive.

7. Do you not think it desirable they should do that?—That would depend upon several things; first, the price of wool; then the price of labour and the price of land.

8. Under existing circumstances, what do you think would be a fair calculation as to the number of additional shepherds and farm-labourers that would be required for the next year?—No doubt we might find employment for about ten thousand immigrants of both sexes, including children.

9. By the *Auditor-general.*] Do you think this number could be safely introduced annually?—Yes; what could not be employed as shepherds, could be employed as agriculturists. A great number of immigrants have settled as small farmers, and these increase the demand for labour.

10. By the *Chairman.*] Could you give the committee a statement as to the average price of wheat and flour per bushel, for the last seven years?—Yes. (*Witness handed in Statements. Vide* Appendix.)

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11. By Mr. *Cowper.*] Are you not aware, from communications you are in the habit of receiving from the interior, that higher wages have been given during the last twelve months, than for some time previously?—I have heard that the price of labour is on the increase.

12. Is not considerable difficulty experienced by persons at the present moment, in hiring shepherds and farm-servants?—I am not aware of this fact; I have not required shepherds for the interior for many months past.

13. By Mr. *Lowe.*] Sydney, I imagine, would be the last place where you would feel the want of labour?—Yes.

14. It would be felt most at the remote parts of the colony; less as you approach Sydney; and at Sydney, least of all?—Yes; I think it would be felt most at Moreton Bay and New England—the Port Phillip district receiving a supply from Van Diemen's Land.

15. By Mr. *Cowper.*] Can you suggest to the committee any means of raising an immigration fund, or any means by which immigration could be imported?—I would not recommend the adoption of the old system—that of selling the land, and paying for immigrants out of the proceeds, as we have done, because I am quite convinced, that neither this nor any other country can afford to pay for the import of the whole of its labour.

16. By the *Auditor-general.*] More particularly where the money is sent out of the country for that purpose?—Decidedly, for we denude ourselves of the means of employing the labour when it arrives.

17. By the *Chairman.*] But a loan would meet that difficulty?—In part; I do not think, if we could borrow money to the extent required in England, we could afford to pay the whole expense of immigration.

18. Supposing a million were raised, that, if rightly applied, would bring out 80,000 immigrants; supposing we could raise the money at three-and-a-half per cent., the interest would amount to 35,000*l.*; do you not think the colony could afford to pay that sum annually, in consideration of receiving 80,000 immigrants?—I think the sum you mention too large an amount to borrow at once; the interest of it, at the low rate of three-and-a-half per cent. would be a heavy sum to pay annually, and would require, to enable the colonists to meet it, good seasons, cheap land, low assessments upon sheep and cattle, and a high price for wool; arrangement should also be made for the repayment of the principal gradually; I have considerable doubts of obtaining large sums of money at home upon the security we have to offer, at the low rate of three-and-a-half per cent.

19. But the colony requires people for many things besides the growth of wool?—Yes, although we have hitherto mainly relied on it for an export.

20. By Mr. *Cowper.*] You think the rapid increase of 80,000 would not be beneficial to the colony?—I think 10,000 would be enough to introduce yearly.

21. By the *Chairman.*] I am assuming that these people come out in the course of years, say five years?—Although I would not advise, at present, to arrange for the introduction of a greater number than 10,000 annually, there is no doubt that the skill and industry thus introduced would develop many of the dormant resources of the colony, and thus create additional employment for labour, with additional exports; skill and industry rightly directed in this colony must produce wealth, by which labour may be beneficially employed to an incalculable extent.

22. By the *Auditor-general.*] Do you think the Home Government should contribute a part?—Undoubtedly; the advantages to the mother country would be great; in the first place, they would be relieved from a portion of their redundant population; and secondly, there would be an increased consumption of their manufactured goods, and the poor starving people would be placed in full enjoyment of the comforts of life, and require no further assistance.

23. By the *Chairman.*] Do you know what is the expense of sending the people to Canada?—Perhaps not above one-third of the expense of sending them here.

24. Now, if the British people want to get rid of their redundant population, do you think we could ask them to go to the expense of sending them hither, when they may send them to Canada for about 3*l.*?—Yes, I think it would be unjust to send them to a place to be starved; for it must be evident, on inquiry, that both the poor labourers and the British public would derive the greater advantage by sending them to this colony; I fear too, that the sufferings of these poor half-clothed people, left on the shores of Canada, must be very great, for a time at least.

25. By the *Auditor-general.*] Do you not consider that they suffer less privation here than in Canada?—I think there is no comparison in the comfort to the immigrant; independently of the superiority of climate, they are so much better provided for here.

26. Besides assistance from the parishes, is there any other means you can think of?—The fund once raised should be kept up by partial payment of the immigrant himself, say one-third or one-fourth of the passage-money after his arrival in the colony.

27. Could you propose any practicable plan of that nature to the committee?—I have no doubt the employers of the immigrants would be very glad to advance one-third of the passage-money, to be repaid by the servant from his wages in one, two or three years.

28. By Dr. *Lang.*] Do you think it would be advisable to establish any such system as would render it necessary for the immigrant to repay a portion of the expense of his passage?—I see no objection to it.

29. Do you think it would be successful?—I think so, if wages continue at the average rates of the last four or five years.

30. Do you think it desirable, for the general welfare of the community, to lay a temptation in the way of any man coming out here to become dishonest?—Certainly not; but I do not see how that applies.

31. Are you not aware, that many parties who have come out to this colony under engagement, upon condition of their paying their passage out of the wages they should afterwards receive, have failed to do so?—I may have heard of such in your own case; but they must be few, and could easily be prevented; the written agreement of engagement should be made between the parties by some official person, appointed by Government for the purpose, and the repayment might be made a condition, or a receipt endorsed by the immigrant on the agreement.

32. Do you think it necessary to have recourse to such an arrangement, if the principle of the Act of Parliament which appropriates the proceeds of the sale of land to the purposes of immigration be a right one?—Yes; I do not think a sufficient sum could be raised from the sale of land.

33. At the present minimum price?—Yes, or at any less price.

34. By the *Auditor-general.*] Would not that lessen the inducement to come out to this country?—I think there would be a sufficient inducement, even though a man did repay a third of his passage-money, if he were to be paid 12*l.*, 15*l.* or 16*l.*

35. Are you of opinion that immigration should be carried out by the agents of the home Government, or that bounties should be given to any masters of ships bringing out immigrants?—I think they should be under some surveillance; the victualling of the vessel, and the management on board ship during the voyage of the immigrants, should be under the inspection of some persons appointed at home; I am in favour of the bounty system as latterly conducted.

36. By Dr. *Lang.*] Do you think the merchants at home should have it in their power to go to any part of the United Kingdom to select immigrants?—Most certainly.

37. Do you not think, under the recent arrangements, there was an undue proportion from one part of the kingdom?—There was a large proportion from Ireland, but I do not object to that; I should like some Scotchmen and some Englishmen with them, but I would certainly not object to Irishmen. I would gladly receive all persons of honest repute, who possessed skill and industry; foreigners, whose climate resembled ours, would be of infinite value to us, as must be apparent to any person who reflected for a moment.

T. Barker, Esq.

2 September 1845.

38. By Mr. *Cowper*.] Did I understand you to say there was not any pressing necessity for carrying out immigration at this moment?—I do not think at this moment the want of labour is felt, but I am of opinion that there will be a great want experienced before a supply of labour can be brought out.

39. Do you not think, even in the ensuing seasons of lambing, shearing and harvesting, there will be a great want of labour throughout the colony?—I have no doubt wages will advance, but I do not think there will be very great want of labour immediately felt.

40. By the *Auditor-general*.] If wages were to become excessive, do you not think a great quantity of stock would be boiled down?—No doubt; that is a powerful check we possess over excessive rate of wages.

41. Do you think that would be a disadvantage?—It would prevent the increase of our export.

42. The mother country would suffer from that?—They would have a less supply of raw material.

43. Upon the whole, do you think the condition of immigrants would be improved by coming to this country?—There can be no question of it; if you ask any man, even the least successful, he must acknowledge it, with few exceptions; viz. mechanics.

44. Have you known many instances where persons have improved their situation by coming out?—I have; some classes of mechanics, engineers, and some others who have not full employment, may not have been benefited, but agricultural labourers and shepherds have been very much benefited.

APPENDIX REFERRED TO.

Market Prices of First Quality Flour, at Messrs. Thomas Barker and Co.'s Mills.

Date.	Per Ton.	Date.	Per Ton.	Date.	Per Ton.	Date.	Per Ton.	Date.	Per Ton.	Date.	Per Ton.	Date.	Per Ton.
1839.	£. s. d.	1840.	£. s. d.	1841.	£. s. d.	1842.	£. s. d.	1843.	£. s. d.	1844.	£. s. d.	1845.	£. s. d.
Jan.	22 – –	Jan.	35 – –	Jan.	25 – –	Jan.	20 – –	Jan.	15 – –	Jan.	13 – –	Jan.	8 10 –
Feb.	29 – –	Feb.	35 – –	Feb.	20 – –	Feb.	20 – –	Feb.	15 – –	Feb.	13 – –	Feb.	8 10 –
Mar.	30 – –	Mar.	35 – –	Mar.	25 – –	Mar.	20 – –	Mar.	15 – –	Mar.	11 – –	Mar.	8 – –
April	42 – –	April	40 – –	April	25 – –	April	20 – –	April	13 – –	April	11 – –	April	8 – –
May	38 – –	May	40 – –	May	25 – –	May	20 – –	May	13 – –	May	11 – –	May	9 – –
June	37 – –	June	40 – –	June	25 – –	June	20 – –	June	13 – –	June	11 – –	June	12 – –
July	63 – –	July	35 – –	July	28 – –	July	20 – –	July	13 – –	July	11 – –	July	13 – –
Aug.	75 – –	Aug.	30 – –	Aug.	20 – –	Aug.	20 – –	Aug.	12 – –	Aug.	11 – –	Aug.	14 – –
Sept.	75 – –	Sept.	25 – –	Sept.	20 – –	Sept.	20 – –	Sept.	12 – –	Sept.	11 – –	Sept.	14 – –
Oct.	59 – –	Oct.	20 – –	Oct.	20 – –	Oct.	20 – –	Oct.	12 – –	Oct.	10 – –		
Nov.	33 – –	Nov.	25 – –	Nov.	25 – –	Nov.	20 – –	Nov.	12 – –	Nov.	9 10 –		
Dec.	35 – –	Dec.	25 – –	Dec.	20 – –	Dec.	18 – –	Dec.	10 – –	Dec.	9 10 –		

Fine Flour.

	£.	s.	d.
Average of year 1839 per 2,000 lbs.	44	16	8
,, 1840 ,,	32	1	8
,, 1841 ,,	23	3	4
,, 1842 ,,	19	16	8
,, 1843 ,,	12	18	4
,, 1844 ,,	11	–	–
,, 1845 ,,	10	11	1

As extracted from the books of Messrs. Thomas Barker & Co.

6 September 1845.

John S. Mein.

Prices of Wheat bought at Messrs. Thomas Barker & Co.'s Mills.

Date.	Per Bushel.	Date.	Per Bushel.	Date.	Per Bushel.	Date.	Per Bushel.	Date.	Per Bushel.	Date.	Per Bushel.	Date.	Per Bushel.
1839.	£. s. d.	1840.	£. s. d.	1841.	£. s. d.	1842.	£. s. d.	1843.	£. s. d.	1844.	£. s. d.	1845.	£. s. d.
Jan.	– 9 –	Jan.	– 12 11	Jan.	– 6 8	Jan.	– 5 10	Jan.	– 5 5	Jan.	– 4 –	Jan.	– 3 3
Feb.	– 10 –	Feb.	– 12 –	Feb.	– 6 –	Feb.	– 6 4	Feb.	– 5 1	Feb.	– 4 4	Feb.	– 3 2
Mar.	– 11 8	Mar.	– 14 11	Mar.	– 6 7	Mar.	– 6 6	Mar.	– 4 6	Mar.	– 3 11	Mar.	– 2 10
April	– 17 –	April	– 17 8	April	– 6 7	April	– 6 5	April	– 4 8	April	– 3 10	April	– 2 9
May	– 15 7	May	– 17 1	May	– 7 9	May	– 6 –	May	– 4 8	May	– 3 1	May	– 3 4
June	– 17 –	June	– 15 10	June	– 8 2	June	– 7 2	June	– 3 4	June	– 3 10	June	– 4 6
July	– 19 3	July	– 11 1	July	– 10 –	July	– 7 6	July	– 4 –	July	– 3 9	July	– 4 7
Aug.	1 2 –	Aug.	– 11 –	Aug.	– 7 8	Aug.	– 7 11	Aug.	– 4 3	Aug.	– 3 9	Aug.	– 5 2
Sept.	1 2 –	Sept.	– 6 11	Sept.	– 7 –	Sept.	– 7 3	Sept.	– 4 6	Sept.	– 3 7	Sept.	– 5 –
Oct.	1 – 3	Oct.	– 6 2	Oct.	– 6 8	Oct.	– 6 10	Oct.	– 4 1	Oct.	– 3 11		
Nov.	– 13 6	Nov.	– 5 8	Nov.	– 8 –	Nov.	– 6 1	Nov.	– 4 –	Nov.	– 3 6		
Dec.	– 13 6	Dec.	– 7 9	Dec.	– 6 –	Dec.	– 6 2	Dec.	– 3 7	Dec.	– 3 6		

Wheat.

	£.	s.	d.
Average of year 1839 per bushel	0	16	8¼
,, 1840 ,,	0	11	7
,, 1841 ,,	0	7	4
,, 1842 ,,	0	6	7
,, 1843 ,,	0	4	3
,, 1844 ,,	0	3	9
Up to 6th September 1845 ,,	0	3	10

As extracted from the books of Messrs. Thomas Barker & Co.

John S. Mein.

6 September 1845.

Philip Holland, Esq. called in; and Examined.

P. Holland, Esq.

2 September 1845.

1. You have been a resident in Port Phillip for some time?—Yes, for five years.

2. Have you been engaged in pastoral or agricultural pursuits?—Pastoral, during the whole of that period.

3. Would you state your opinion as to the capability of the colony for immigration generally?—The district of Port Phillip is a splendid field for immigration; I think the soil able to maintain a dense population, and the climate highly favourable.

4. Are you acquainted with England generally?—I have travelled a great deal in England.

5. Would you compare the province of Australia Felix, in point of apparent fertility, with any district in England, or with England generally?—I am of opinion that the western district of Port Phillip is capable of supporting as dense a population as any part of England.

6. Do you think the climate favourable?—Highly.

7. By the *Auditor-general.*] Have you experienced any inconvenience from the dryness of the climate?—Not the least.

8. By the *Chairman.*] What number of immigrants might be received so as to be profitably employed in that district, for the next three or four years?—I consider the district would absorb 3,000 a year for the next three or four years; I mean 3,000 immigrants, including women; for a more extended period, I would not assert that we could take so large a number, unless a corresponding amount of capital was introduced into the province in the mean time.

9. What is the state of the supply of labour now in your district?—Wages are exceedingly high.

10. Are wages increasing?—Rapidly; three weeks ago I could not obtain shepherds under 24*l.*, with a ration of 10 lbs. or 12 lbs. of meat, a peck of wheat or 10 lbs. of flour, 2 lbs. of sugar, and ¼ lb. of tea; that is the regular weekly ration; if there be a difference, it is in the supply of meat varying from 10 lbs. to 12 lbs.; at my own station I give 10 lbs. of meat.

11. Do you apprehend any increase in the present high rate of wages unless we get a fresh supply of labour?—Undoubtedly; I consider the settlers will be in a much worse position than they are at present; in fact I have the worst apprehensions for the result, unless there be an immediate supply; the demand for labourers in our district at the present time is so urgent, that two associations have been organized for the introduction of expirees from Van Diemen's Land; the expense which is thereby incurred is defrayed by a voluntary impost among the settlers. In my opinion the home Government would render our district essential service were they to send the Pentonville expirees. I consider, as far as our province is concerned, being a free community, it is the most suitable colony for their reception; I will observe, whilst speaking on this subject, that there is a difference of opinion in our district as to the propriety of introducing the Pentonville expirees; that difference of opinion exists only between the employers of labour and those who are not; I speak advisedly when I affirm, that I am expressing the opinion of all settlers, when I state that they would gladly receive the Pentonville expirees as labourers.

12. By the *Auditor-general.*] Would you resort to boiling down if wages were much higher?—We shall have no alternative; but there is not the same inducement in our district as in this, because at present we have plenty of room for our increase, and as long as we have pasturage we shall be disposed to go on increasing; besides, I apprehend that the settlers are not so much embarrassed in that district as they are here.

13. By the *Chairman.*] What amount of increase could you find room for in your district; do you think you could feed twice the present quantity of stock?—Certainly.

14. By Mr. *Cowper.*] Through an average of seasons; suppose, for instance, you were afflicted with drought?—We have not experienced a drought; if we may judge from the past, I think we have no reason to expect one.

15. By the *Chairman.*] Do you not think it would be desirable to introduce a class of persons, such as the small yeomanry of England, who would cultivate farms of perhaps 200 acres extent, by the labour of their own hands and that of their families?—It would be a splendid field for them.

16. Could you suggest any plan by which persons of that class could be induced to immigrate to this colony; do you think, for instance, if there was a remission in the purchase money of land equivalent to the amount of the passage-money, that would induce them to come?—I think it would be a great inducement.

17. And if it were extensively known in England, you think many persons of that valuable class, with their families, would come out?—I think so.

18. Do you think the retaining of the present high upset price of land, 1*l.* an acre, calculated to interfere with arrangements of that kind?—Decidedly; I think the effect of that is most mischievous.

19. What is the opinion of the settlers of Port Phillip upon that subject?—It is the general opinion that it is most injurious to the colony.

20. It is calculated to retard immigration?—Yes, particularly of that class of people you have referred to.

21. By Dr. *Lang.*] Do you not think it also tends to prevent the population generally from assuming that position in society which they would have, if they had holdings of their own?—I have no doubt of it.

22. By the *Chairman.*] From what you know of the capabilities of this country, of its soil and climate, do you think there would be any doubt of the ultimate success of a farmer with a small capital, and a farm of say 150 or 200 acres, cultivated by himself and his family?—I think such a person would do well, that his position would be materially improved by immigrating to Port Phillip.

23. Would you look upon the low value of agricultural produce as calculated to interfere with the prosperity of small farmers?—No.

24. By the *Auditor-general.*] Do you think they could raise wheat at such a price as to make it pay to send to England?—I feel certain they could.

25. At what price could a family, the father and sons working the land, be able to raise wheat?—On exceedingly low terms; on account of their cultivating the ground themselves, they would be at very little expense.

26. By the *Chairman.*] Is not the ground actually already cleared?—To a great extent it is ready for the plough, and is as fertile land as any in the world.

27. Have you been engaged in agricultural pursuits?—Not at home; I have here.

28. Could you state the quantity of wheat grown upon an acre?—I have grown thirty bushels upon my own land.

29. By the *Auditor-general.*] Have you formed any opinion as to the means most likely to promote immigration?—I am of opinion, as the colony is now circumstanced, that we should endeavour to obtain a loan in England for the purposes of immigration. I think that our necessities and position should be brought under the notice of the home Government; probably they might be induced to adopt some scheme of emigration, in order to relieve the parishes of a portion of the enormous pauper population.

30. Supposing a loan of 1,000,000*l.* were raised, do you anticipate that the colony would have any difficulty in paying the interest of that sum?—I should say not.

31. By the *Chairman.*] Supposing it could be raised at three-and-a-half per cent.?—I should anticipate no difficulty. My reason for suggesting the raising of a loan in England is, that we could obtain the money on more advantageous terms; besides, if a sum adequate to our necessities could be obtained here, the abstraction of so large an amount from the resources of the colony would have a most pernicious effect.

32. By Dr. *Lang.*] Do you see any prospect, under the present system, of raising a sum for the purpose of immigration from any other source?—Certainly not.

33. Do you not think the introduction of useful labourers, such as a loan would import, would be productive of a larger amount of additional revenue than would be sufficient to pay the interest?—I do, for they would immediately become very large consumers.

34. You

P. Holland, Esq.

2 September 1845.

34. You consider the district of Port Phillip peculiarly available for the establishment of small farmers on their own account?—Certainly.

35. Would such families have any difficulty in establishing themselves, supposing they had capital enough to purchase a sufficient extent of land?—I have known several parties who have improved their condition very much in that way.

36. By the *Chairman.*] Is it not a fact, that many shepherds have set up as settlers?—Yes; I have shepherds in my employment who have given sheep out on terms; and several who have funds in the Savings Bank.

37. By Mr. *Cowper.*] Have you seen any district besides Port Phillip?—I have travelled over the country, from Bathurst to Port Phillip, with stock.

38. By the *Auditor-general.*] Is there much land of a good description between Bathurst and the Port Phillip district?—There is not, till you get to the Murrumbidgee; from thence to Melbourne the country improves, and on the banks of the rivers there is excellent land.

39. By Mr. *Cowper.*] Do you think there would be a sale for the produce of a large number of small farmers; what would they do with their wheat if they produced it?—Any surplus they might have, after reserving sufficient for their pigs and other stock, they might export.

Thursday, 4 September 1845.

Present:

CHARLES NICHOLSON, Esq., M.D., in the Chair.

The Auditor-General.	Rev. Dr. Lang.
Charles Cowper, Esq.	Robert Lowe, Esq.

John Udney, Esq., M.D., called in; and Examined.

John Udney, Esq.

4 September 1845.

1. You have come out to this colony several times as surgeon-superintendent of immigrant vessels?—I have.

2. And have been in various parts of the Australian colonies?—I have; I have been all over Van Diemen's Land, have visited Port Phillip, and taken a range of more than 20 miles round Melbourne; in this part of the colony, I have been beyond Richmond, Windsor, Penrith, Singleton and Campbelltown.

3. What is your opinion of the capability of the country as a field for immigration?—I think it is the first field in the world as regards climate; I am not so capable of speaking with regard to the soil; I have resided about eight years in Italy, three months in Chili, and along the whole western coast of America; I have passed over France three times, from Toulon to Calais, and have visited Spain, Portugal and the north coast of Africa.

4. Looking to the surface of the globe generally, what is your opinion of Australia?—Comparing the climate of this colony with the climates of other countries, this is beyond every thing in the world; the heavy gales of wind and tremendous rains to which Chili, New Zealand, &c. are subject, are great objections; besides, no Protestant could live in the first comfortably; we have here no mistoral, tramontana or sirocco winds, with their unpleasant and unhealthy changes; and the malaria of Italy is unknown to us; in fact, extensive study of medical statistics in France, England, Italy and Australia, causes me to conclude that this colony is superior to all the earth in point of health and longevity.

5. Can you state to the committee whether the social condition of immigrants is improved by coming to this colony?—I think there is no comparison between their condition after their arrival in this colony and before leaving home; before I was appointed to select immigrants, I lived principally in large towns at home, and the people have been there in great wretchedness, requiring more fuel and other expensive comforts.

6. Have you been able to follow out the fortunes of many of the immigrants whom you have brought out here; have you traced their history subsequently to their arrival here?—I have, of a great many, and many have thanked me for having been the means of sending them out here; several I can refer you to.

7. You think they have generally had their expectations realized?—Nine-tenths of them I should say.

8. By Captain *Dumaresq.*] From what you have seen of them, do you consider they live here in much greater comfort than at home?—Yes; the supply of food is much more ample; but one great evil is, that the mass of immigrants, more particularly those from the south of Ireland, come out with too high expectations; many of them talk of going back in three years with a fortune.

9. By the *Chairman.*] Are you aware that there is at present a great deficiency in the supply of agricultural and pastoral labour?—It is very extensive; I have inquired into that point; I think the want of women a great evil.

10. Could you suggest to the committee any means of supplying that demand?—I think there is not the slightest difficulty in supplying the demand, if it is set about in the proper manner; I would beg to mention a few circumstances, to show that there are great difficulties thrown in the way of persons about to emigrate to this colony, or that there were three years ago; Alderman Andrews, of Belfast, a gentleman of very high standing there, and Mr. Wilcox, of Plymouth, solicitor, had both called at the office of the Emigration Commissioners, and stated that they were about to proceed to this colony to purchase land; every means was used in the office to dissuade them from coming to this colony; it was called by the clerks the "pickpocket" colony, and they were offered books to read themselves, and to disseminate among their friends, to show that South Australia and New Zealand held out better prospects than this colony; I should suppose that similar means would be used to deter the labouring population from coming out here, as were employed to dissuade the land purchaser from doing so; I was often attacked in the paid publications for my exertions, and in the London "Spectator" in particular: when a ship is about to sail, as many are shipped in London as will pay the agents a sum of money, or the difference of a cabin or of an intermediate passage; I have known 5*l.* paid, sometimes 2*l.*, and as high as 9*l.*, for each child on the leave to go in a ship; the agent at Cork is then told the numbers required to fill up; he goes to the villages around and takes first any who will fee him; and next, any fellow. I would put an end to all receipts of money for children, or on any pretence; some time since a Glasgow house took a contract for sending emigrants to this colony; a person in Liverpool, long in the habit of sending out poor people to America, repeatedly, not in the most honest manner, to my knowledge, gave 2*l.* each person to the contracting house for permission to send several ships, and they did nothing but put the money in their pockets; of course, he made the 2*l.* up from some quarter; I knew this man on one occasion to be guilty of the following trick: his agent in Ireland would not secure a passage to a family to America until a certain sum was paid down, the rest to be paid in Liverpool; on arrival there they were told they must take so much of various kinds of provisions from his stores; the father of the family was then shown into this agent's private office, and the receipt he had received in Ireland was burned before his face; he had no witness and no redress, and was obliged to sell several things to repay the 7*l.* advanced in Ireland. Was this a fit person for an agent for this great colony? No boats are allowed often to go alongside of emigrant ships, under various apparently good pretexts; the watermen permitted to approach demand too much, under an understanding with some one, and many more great evils exist, and must under the present management. Should any person be selected as an emigrant who can pay the difference of an intermediate passage, much more a cabin?

John Udney, Esq.

4 September 1845.

11. By Dr. *Lang*.] Do you not think the main reason for having so large a proportion of immigrants from that part of the United Kingdom is, that it is cheaper to bring them from thence?—Yes, it saves three or perhaps six weeks' expense of keep; when I had selected 300 or 400 in England, thinking their outfit to be sufficient, they have been rejected by the agents, on the ground that their clothing was not sufficient, &c., and the ship has then been filled up by persons brought from Cork to Plymouth, at an expense of 5*s*. each, not having half the quantity of clothing, and, in point of eligibility, not to be compared with those originally selected by me.

12. Do you not think another reason why we have fewer immigrants from England and Scotland than the fair proportion is, that there are no efforts made to remove the prejudice that is felt against this colony?—A great deal has been done in England with that view; I have myself lectured in many parts of the kingdom, and have sold and given away about 40,000 volumes upon the subject; but, unfortunately, at the time I was labouring for this colony, Dr. Rolph, from Canada, counteracted me in a great degree.

13. Are you not aware that there is a very widely-extended prejudice against this colony at home?—Very widely, and unjustly.

14. In consequence of the efforts of the agents of other colonies in favour of their respective colonies?—Yes; Colonel Torrens and his son went round the country, lecturing upon South Australia, and holding meetings; and there were some persons urging the advantages of emigrating to New Zealand. There is one great obstacle in the way of getting out proper immigrants; it is the difficulty of getting out a number of relations or friends from a neighbourhood together; people like to have their families and friends with them, but, under the present regulations, perhaps one would be chosen and another rejected, and the party chosen might object to come, because of the rejection of his friend; for this cause, many will not come to the colony at all, and others come with great repugnance, and get dissatisfied soon; if a number of persons might be removed from a particular district, with the understanding that they should be settled in a certain district in this colony, and form a neighbourhood similar to that which existed at home, I think much of the feeling against the colony would be done away with; morality, religion and contentment would be promoted, and many would be induced to follow the first set so selected; there is a strong impression at home among the poorer classes that there is a great deficiency of water for common use here, and there is also a dread of bushrangers; it would be well to publish, as extensively as possible, that there is nothing to be dreaded with reference to either of these matters.

15. How would you convince the people at home of that?—By publishing local statistics of the various districts, and having a paper in the interests of the colony at home, lectures, &c.; I think the Emigration Commissioners stand very much in the way of immigration to this colony; when I went home with despatches last time, the sum paid for bringing out each immigrant was 22*l*. 10*s*.; I made calculations, and offered to take them out at 16*l*, or probably 15*l*.; the Commissioners would not listen to my proposal unless they had the selection; I said I would submit every one of the immigrants to them for their inspection, but they objected to it *in toto*; they also objected to any vessels but those got by the brokers, and I believe there is some understanding between parties in the office and the brokers; I said, if a ship stood on the first letter, I did not see why she should not be as eligible as any other; they said no parties could judge of ships but the brokers.

16. By the *Chairman*.] What would you take as the average expense of bringing out men, women and children?—I would bring them out at 15*l*., probably less, counting two and three children to an adult, as usual.

17. What do you think of making the immigrants pay any portion of their expenses?—I think that would be very bad, and I do not think it is required; if a subscription were got up throughout Great Britain, so great is the feeling that emigration must take place before long, that I am convinced a sufficient sum might be obtained to pay the expense of conveyance to the port and the outfit of emigrants, or even much more.

18. By Mr. *Cowper*.] Do you mean contributions from the parishes?—They would contribute also, but I would not confine myself to them; I would engage to find 100,000*l*. or more.

19. By the *Chairman*.] How would you obtain the money to bring the immigrants out here?—I think it might be obtained by means of a loan, to be raised in a particular manner, but I cannot go into it, so as to make it understood; it should be a private speculation, only encouraged by the Council, and controlled to any extent they may see proper or please.

20. Do you think there is any chance of the English Government being persuaded to pay a portion of the expense?—I think they must do it before long, population increases so rapidly; and it appears from Sir James Graham's statement, that 220,000,000*l*. have been expended on paupers since the peace.

21. Do you think immigration would be attended with much advantage to the mother country?—Yes, the increase is so great; some time ago it was 1,000 a day, and it must be greater now, and every year.

22. Are there any other points you would suggest to the committee?—The mineral wealth of this colony is very great; I would suggest the encouraging companies to work the mines; the ores are rich and near the surface, unlike those of Chili and Peru; it would be well, I think, to carry out the survey moved for in your honourable Council; a reverend gentleman, well able to undertake it, and who has much material already collected, known to many of you, I hear from him, is in the colony. A port for the fishing of *beche la mere* should be founded in the north, the top of the Gulf of Carpentaria most probably. Americans, principally men somewhat coloured, who are uncomfortable at home, could be encouraged to come to the colony to cultivate tobacco and cotton; indigo would suit this climate better than any other—or the climate it. The Council should encourage the proposed society for advancing the arts and agriculture, and every thing, and every man, who proposed any plans which are at all plausible for the advantage of the colony. Mrs. Chisholm's work should be purchased to a large extent, and given to all the friends of the colony at home to distribute. Were I empowered to appoint, in various places at home, committees of management from among the friends of the poor and of the colony, to have the receipt and disbursement of monies, I would undertake to get as much as would be, at all events, a great aid to immigration; if the Council could purchase a considerable tract of the best situated land, and sell it on the Canadian plan of yearly payments, it would be well; or if they would encourage a company, who would also receive payment of passages by annual sums, I am sure it would give a great impulse to immigration; farmers, as part of the plan, should be permitted to import their own servants; but no shipowners nor agents should be on the committee of management.

Rev. *William Schmidt*, called in; and Examined.

Rev. *W. Schmidt*.

1. You are a native of Prussia, I believe?—I am, of Pomerania, in Prussia.

2. And are now engaged in the mission at Moreton Bay?—I am.

3. You have been in this colony some years, I believe?—I have, nearly eight years.

4. What do you think of the colony generally, as a field for immigration?—I think it a most eligible field.

5. Your experience is chiefly restricted to Moreton Bay?—Yes; but I have been over other parts of the colony.

6. Do you think immigrants might be introduced from Germany with advantage to themselves and to the colony?—It would not be at all difficult to induce them to come to this part of the world.

7. What class of immigrants might we obtain from that part of Europe?—Particularly agriculturists and artizans.

8. From

Rev. *W. Schmidt.*

4 September 1845.

8. From what parts of Germany?—Both from the southern and northern parts.

9. Of course you are aware that there are large immigrations from Germany to the United States?—I am aware there are.

10. Those Germans who emigrate to the United States of America supply the funds for their passage?—They do; the immigration to America has arisen partly from religious persecution, and that was also the case with respect to those who emigrated to South Australia; the emigrants to the United States and to South Australia were principally from the provinces of Saxony, Silesia and Pomerania in Prussia.

11. Of what religion are they?—Lutherans.

12. Do you conceive that the hope of improved circumstances generally would be a sufficient inducement for persons to immigrate to this colony?—I have not the least doubt of it, particularly since very favourable intelligence has arrived from South Australia.

13. Were you never out of the Prussian dominions till you came to this colony?- No.

14. What means would you suggest to the committee for the introduction of your countrymen into this colony?—I think if a considerable sum were remitted, at any rate the amount of the passage-money, in the purchase of land, that would be a sufficient inducement.

15. You think they could pay their own passages?—The greater number, especially if the persecution in the Church should continue; if that should be discontinued, a change would probably take place, and those who are able to pay their passages might not be inclined to come.

16. By Dr. *Lang.*] Are you aware what is the annual immigration to the United States from Germany?—I should think about 30,000 annually.

17. And that population pays the expense of its own emigration entirely?—Yes, those congregations who unite in emigrating have generally large funds. In a letter which I have received recently it is stated, that a single congregation have been able to contribute for the purchase of land in America 19,000 dollars; the amount of capital possessed by the emigrants to the United States is estimated at about 5,000,000 of Prussian dollars, which at 3*s.* a dollar would be about 750,000*l.* sterling.

18. By the *Chairman.*] Do you not think we ought to send an agent to Germany to establish a system of immigration in the first instance?—It would be doubtless a great advantage.

19. By Dr. *Lang.*] Do you think if accurate information respecting the eligibility of this country, as a field for immigration from Germany, were diffused in Germany from such a source as would induce the people to give credit to it, they would be disposed to come here rather than go to the United States?—I think so for many reasons; on account of the climate, the soil, and also from the news that have reached them from South Australia, which have induced two new congregations to come out to that place about six or eight months since.

20. They emigrate in entire congregations, establishing a common fund?—Yes; for my own part I should not endeavour to induce my countrymen to come out except in that way, bringing their minister and schoolmaster with them; because, coming out singly, they would have disadvantages in many respects, from being unable to express themselves in the English language; from the difference of their habits and other causes, and particularly from the want of a home; if, however, they come out in congregations, they would settle upon the spot, and the young men and women, who were scattered about the district, would feel that they had a home to which they might resort occasionally.

21. Do you think the district of Moreton Bay peculiarly eligible for the settlement of such persons?—I have not the least doubt on the subject; the soil is most fertile, and the climate is milder than even that of this part of the colony.

22. By the *Chairman.*] Would you be apprehensive that the penal character of the colony would interfere to prevent persons of that description from coming out?—No.

23. By Dr. *Lang.*] Especially if they came in communities?—Just so.

24. What kind of productions may be raised at Moreton Bay?—First of all, almost every kind of European vegetable, and also the productions of tropical climates, vine, orange, peach, tobacco, pine apples, bananas, sugar cane, coffee, flax, maize, wheat, yams, sweet potatoes; cotton thrives very well, and arrowroot is growing very fine; persons are able to have two crops during one year of maize and sweet potatoes.

25. Is there a large extent of land in the district of Moreton Bay suitable for the settlement of small farmers?—A large extent; at least as large a tract as that of the Hunter's River is suitable for small settlers. It has come under my knowledge, that a small settler, not far from Brisbane Town, has raised about 80 bushels of maize from one acre.

26. By the *Chairman.*] Was that circumstance well authenticated?—So I have been told; there is more rain in that district than here, and the heat of the sun is less oppressive.

27. By Mr. *Cooper.*] What would be the expense of the passage of an individual from Hamburgh to this colony?—I am not aware; but I have not the least doubt if a German vessel were taken, immigrants might be brought at a less expense from thence than they could from England.

28. Do you think the rate of wages paid here would be a sufficient inducement to persons to immigrate to this colony?—I think so.

29. By the *Chairman.*] From the north of Germany we should be more likely to have a Protestant community?—Yes, they are Lutherans and Calvinists there; those who have settled at South Australia are Lutherans.

30. Have those who have settled in South Australia brought their clergymen with them?—Yes; and they have their churches.

31. By Mr. *Cooper.*] Did they purchase allotments of land there?—I am informed they settled in the neighbourhood of Adelaide, and held land on a lease from the company for seven years; the seven years have now passed; they have united with the new arrivals, have bought land, and are now forming little villages and towns.

32. By Dr. *Lang.*] You are aware that there is a considerable disposition to emigrate from Germany independently of religious persecution?—From some of the states there is; but I do not think the desire to emigrate from Prussia would be so great but for religious persecution.

33. Can you speak as to emigration from Bavaria?—During five years, from the year 1835 to 1840, 24,500 emigrated to the United States from Bavaria, or nearly 5,000 a year; and it was estimated that they carried with them a capital of 7,000,000 florins, or 675,000*l.* Bavaria is a Roman Catholic state, but with a large Protestant population, whose condition under a Romish government induced them to emigrate the more willingly.

34. By the *Chairman.*] Where did they embark?—Chiefly at Rotterdam and Havre-de-Grace.

William Walker, Esq., called in; and Examined.

William Walker, Esq.

4 September 1845.

1. You have resided in and been connected with this colony for many years?—I first came into this colony 30 years ago, and have been connected with it ever since, but I have not been constantly residing in it.

2. Consequently, you have had a good deal of experience with regard to the colony and its capabilities?—Yes.

3. Do you consider the colony generally a favourable field for immigration?—I do.

4. Capable of supporting a large population?—Capable of supporting a large population.

5. What parts of the colony do you think are the best suited for an agricultural population?—The Hawkesbury, Hunter, Campbelltown, and Illawara districts; there is also at Broulee, Port Macquarie, and Port Phillip much land fit for cultivation.

6. Can you give the committee any information as to the present rate of wages throughout the colony generally?—I believe the present rate is from 15*l.* to 18*l.*, with a ration of 10 lbs. of meat, 10 lbs. of flour, 1 lb. of sugar, and 2 oz. of tea; some parties give 1½ lb. of sugar and 4 oz. of tea.

7. Is that an advance upon what has been the rate of wages hitherto?—It is a slight advance on what were current 12 months ago.

8. Do you think the present rate is advancing?—Certainly.

9. Do you think there will be any considerable increase in the rate of wages?—I do.

10. To what cause do you attribute the probable increase?—To the increased demand for labour; the increase of our flocks and herds demanding a fresh importation of labour.

11. What would you suggest as the best means of meeting this want of labour?—I know of no other way than by raising a loan for the purpose of immigration.

12. Upon what security would you borrow?—I would give security over the whole of the revenue of the colony.

13. At what rate of interest do you think the money might be borrowed?—If in England, and the loan recognized by the Government there, and the interest was payable there (or here, at the option of the lender) half-yearly, I think it might be obtained at 4 per cent.

14. By the *Auditor-general.*] To what amount would you raise a loan?—I would go on gradually; we have had during the last two years an importation of immigrants to the extent of, I think, 4,000 or 5,000, which did a great deal of good; the number was about sufficient at the time; it had the effect of lowering the wages, but for the last six months they have been gradually rising.

15. By Mr. *Cowper.*] That number was introduced during a time of comparative gloom; now that the prospects of the colony appear to be reviving, do you not think we might take a larger number?—Yes, I think we might, because at the time I have referred to many stockholders were not increasing their flocks.

16. By the *Auditor-general.*] Those immigrants were readily taken off?—Yes, excepting the married people with young families, who hung a little on the hands of the Government, but not long; all the young couples and single people were taken off as soon as they arrived.

17. By Mr. *Cowper.*] I judge, from what has fallen from you, that you would rather see a gradual importation of persons, so as not to overstock the market, than have great numbers pour in at a time, and at irregular intervals?—Certainly; I think bringing out too large a number has a bad effect, by preventing them all from meeting with immediate engagements, and so causing some of them to write home, stating that they cannot get employment; whereas if a smaller number arrive and obtain engagements at once, they write home favourably of the colony, and induce others to come out.

18. By the *Auditor-general.*] You do not think so many as 40,000 might be imported in the year, as was the case in the year 1842?—No, I do not; but as no immigrants have arrived for 12 months past, and all our flockmasters have of late been increasing their flocks to the utmost in their power, and the increase of both sheep and cattle is now very large annually, perhaps the first year 10,000 might be introduced; that is, including women and children; and I would stipulate that for every male adult brought out there should be an adult female emigrant also brought.

19. By Mr. *Cowper.*] Do you not think if the colony enjoyed comparative prosperity there would be an increased demand for labour?—I think there would.

20. Do you not think that in all probability these 10,000 immigrants would be accompanied by capitalists, who would become additional employers of labour, and that many parties in the colony, at present in the capacity of labourers, would, by the improvement of their circumstances, be enabled to settle and become employers of labour?—Yes; I think that the first might be the case, and the latter, we know, is of frequent occurrence.

21. By the *Auditor-general.*] You are of opinion that no time should be lost in effecting this loan?—Yes, I think there should be no delay.

22. By Mr. *Cowper.*] Do you anticipate there will be any difficulty in procuring shearers and harvest-men during the ensuing season?—I think there will be.

23. By the *Auditor-general.*] In what way do you think this immigration could be most advantageously carried on; by Government, or by the agents of the colony?—I think immigration, as it was carried on latterly, worked well; the plan adopted was, that the agents at home should send out the description of persons specified by the colonists; you intimate what description of labour you require, and it is left to individuals at home to send out those labourers; but before their passages are paid they must all be inspected by a board here, and those only are paid for who answer the description sent home.

24. Would you recommend that ships should be taken up expressly for immigrants, or that they should be brought in ordinary merchant-ships?—I think if immigration is to be carried out to any extent, they should be brought out in ships set apart for the purpose.

25. By Mr. *Cowper.*] What would you think of sending out two or three ship loads of females only?—I question whether we could get them; I think it was found to be very difficult, when female immigrants were introduced into this colony on a former occasion, to get respectable persons to come in that way.

26. Do you not think, with some portion of married people, a ship load could now and then be obtained?—I think it would work very well if they were accompanied by their friends and relatives.

27. Was not the fact of the old system working badly attributable to this, that the owners having engaged to sail by a certain day, and not having obtained their complement of respectable females, were obliged to fill up with any thing they could get?—As far as I recollect, the ships were chartered by Government, and it was of no consequence to the owner, therefore, when the vessel sailed; a committee appointed by Government had the selection, and when they found they were unable to provide a sufficient number of respectable females, they were less rigid.

28. By the *Auditor-general.*] What do you think would be a sufficient sum to enable us to introduce the number of immigrants we should require for the first year?—I think they would cost about 16*l.* each adult.

29. By Mr. *Cowper.*] You think it could not be done for less?—I do not think it could, if a first-class ship were chartered; Mr. Marshall complained to me, a few years ago, that 19*l.* did not pay him, but I think it might now be done for 16*l.*

30. By the *Auditor-general.*] Then a loan of 200,000*l.* would amply cover that?—Yes.

31. By Mr. *Cowper.*] Do you think any assistance could be obtained from the parishes?—I think it might; the parish might perhaps pay a part, and the employer who takes the immigrant out of the ship might also pay a part.

32. Do you not think the immigrant might also pay a part?—His master might pay for him, the immigrant entering into an engagement to repay the amount out of his wages, but such arrangements are difficult to work. In our own concerns we have had men from Scotland, who stipuluted to pay a certain sum out of their

their wages annually, to repay the cost of their passage out; the men were engaged to serve us for three years, and we found it work tolerably well, but they were men of character.

33. You think a scheme of that kind would work well?—I think it might work thus:

Passage of a single male adult, say			£. 16
Of which to be repaid in Sydney by the hirer	£. 2		
„ „ „ immigrant	6		
		—	8
			8
„ paid by the parish in England	£. 4		
„ „ colony	4		
		—	8
1st year, say £. 16; deduct for passage money	£. 3	—	13
2d „ 18 „ „	2	—	16
3d „ 20 „ „	1	—	19
	£. 6		
Passage of a married couple			£. 32
Of which to be paid in Sydney by the hirer	£. 3		
„ „ „ immigrant	10		
		—	13
			£. 19
„ paid by the parish in England	£. 9		
„ „ colony	10		
		—	19

Wages of the couple; the woman to act as hutkeeper, house servant, or in other capacity:

Wages, 1st year, say	Man, £. 18 / Woman, 10	£. 28; deduct passage-money,	£. 5	— 23
„ 2d	„	„	3	— 25
„ 3d	„	„	2	— 26
			£. 10	

34. Do you think it necessary to hold out an inducement?—If you want a good class of immigrants you must hold out an inducement; and the country can afford it, if wool and stock keep at their present price.

35. By Mr. *Lowe.*] Do you not consider that the regular reduction of the capital of the country would be injurious?—It would be somewhat injurious, but I think we could afford it for a supply of labour.

36. By Mr. *Cowper.*] I presume you take it for granted, that if we must have labour we must pay for it in some way?—Yes.

37. By Dr. *Lang.*] Do you think the interest of a loan would bear any proportion to the benefits derivable from the introduction of a number of immigrants?—The interest of a loan would, I think, bear no comparison to the benefit which the colony would derive from the introduction of immigrants of a proper description.

38. By the *Auditor-general.*] Do you think, from your knowledge of the capitalists of London, there would be any difficulty in negociating a loan for 200,000*l.*?—Not the least, if we, with the sanction of the Home Government, gave security upon the whole funds of the colony, it might be obtained, I think, at four per cent. I am speaking of undoubted security; if our best security were not given we could not get it at all.

39. By Mr. *Lowe.*] Do you not think the expenditure of the loan should be regulated by the rate of wages in this country; that we should not introduce labour till wages had reached a certain height?—Just so; that is to say, we should not bring people here when we have no occasion for them.

40. By the *Auditor-general.*] Do you think 500,000*l.* would be too much?—You might ask for 200,000*l.* to commence with; I think our greatest chance of success in obtaining the approbation of the Government at home, would be by asking for a limited amount at first; they are afraid that more men may be sent out than would meet with employment, because parties write home to their friends in England, where that is the case, unfavourable accounts, and that causes an outcry which teases and annoys the Government.

41. By Dr. *Lang.*] Do you not think persons of the class of small farmers should have the bounty, in whatever form it may be given, extended to them?—In the shape of remission in the purchase of their lands?

42. Yes, I think so.

43. Do you think an indulgence to that extent would have the effect of inducing many persons of that class to come out?—I think it would have a favourable effect.

44. By the *Auditor-general.*] Would you have the sum to be allowed a fixed sum, or a sum equal to the actual cost of the passage in each instance?—I should have a fixed sum, so much for steerage, and so much for intermediate passengers.

45. What do you think would be a fair sum to allow?—I have said 16*l.* for an adult steerage passenger.

46. By Mr. *Lowe.*] Would you then give every steerage passenger 16 acres?—Yes.

47. Do you think that would have the effect of supplying the demand in the labour market?—No, I do not think that a sufficient number of persons of the description now alluded to would offer themselves, but it might induce some to emigrate, for people at home think a great deal of being the proprietor of 16 acres of land.

48. But is not the object to get men who would not be proprietors of land?—Certainly, our object is to get out labour, but I suppose that few of the parties here referred to would have the means of establishing themselves on their own land as soon as they arrived; they would require to work for wages for a time, in order to obtain the means to commence on their own account.

49. By the *Auditor-general.*] Are you satisfied that immigrants who have come out to this colony as labourers have improved their circumstances by doing so?—Yes.

50. Do you know any instances of that kind?—I do; there are several men who came out under engagements to serve us for a term of three years, who are now squatters and possessed of both sheep and cattle, and in receipt of a good income from them; a person who came here with me as shepherd in 1828 is now the proprietor of upwards of 8,000 sheep and 700 head of horned cattle.

51. What would be the value of those sheep?—Two thousand five hundred pounds at least; his wool of last clip sold for upwards of 700*l.*

Mrs. *Caroline Chisholm*, called in; and Examined.

1. You have resided in this colony some years?—Yes, upwards of six years.

2. You have interested yourself very much in the fate and fortunes of many of the immigrants who have come out here?—Nearly the whole of my time has been so occupied; I have frequently for weeks together, in my endeavours to remove the immigrants into the interior, been at work for 14 hours of the day.

Mrs. C. Chisholm.

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3. Will you state your opinion to the committee as to the advantages this colony holds out to the poorer classes of the mother country on emigrating here?—My opinion is, that the poorer classes considerably improve their circumstances by coming to this colony.

4. By the *Auditor-general.*] Have the majority of the immigrants with whom you have been acquainted improved their condition by coming to this country?—Yes, the great majority; I have here a comparative statement of wages, received by a family in Ireland and in New South Wales. [Mrs. Chisholm handed in the statement.—*Vide* Appendix, No. 1.]

5. By Mr. *Lowe.*] The wages mentioned in that statement are those received in 1842?—Yes.

6. Could those rates be obtained now?—Yes, for wages are on the rise.

7. By the *Chairman.*] Do you think the rates of wages are on the increase at the present moment?—They have increased 15 per cent. during the last three months, taking the average throughout the colony. [At the request of the Auditor-general, Mrs. Chisholm read a number of statements furnished by immigrants in various parts of the colony, relative to the improvement of their circumstances, caused by their emigrating to New South Wales.—*Vide* Appendix, No. 2.]

8. From what number of cases are those you have read selected?—From upwards of 200. With reference to statement No. 83, I beg to recommend to the kind consideration of the committee, that individuals so situated as the one in question may be permitted to have their wives and families sent to this colony passage-free, their separation from their families being a source of great evil.

9. By Mr. *Lowe.*] Can you suggest any scheme by which immigrants might be made to refund part of their passage-money out of their wages, or do you think that would be desirable?—I think if a man continues in service for four years he quite repays his passage-money; indeed I consider that money expended upon immigration is a profitable investment for the colony and for the mother country.

10. By the *Auditor-general.*] Do you think such a scheme would destroy one of the inducements to emigrate?—Yes; and if the money were repaid at all, I think one-half should be paid by their employers.

11. By the *Chairman.*] Would not the men consider themselves as slaves, or serfs, if they were bound to one employer until a certain sum was paid?—They would never stay with their masters until the sum was paid.

12. By Dr. *Lang.*] Would it not have a demoralizing effect, by inducing persons to break their engagements?—I have not given that subject much consideration, because I am quite certain you could never get people to emigrate upon such terms, in the numbers you require them.

13. By Mr. *Cowper.*] Are you not aware that many employers have introduced persons into the colony under such agreements, and have obtained from them the money advanced for their passage?—Yes; but in these cases there has been a previous knowledge of character, which gave the parties confidence; but even with this advantage I have known some breaches of agreement, and much dissatisfaction to both.

14. By the *Chairman.*] What do you think of allowing those who pay their own passage, to have a remission in the purchase of land, equivalent to the cost of their passage?—The immigrants we require for the labour market are poor people; the poorer the better for themselves and the colony; my experience makes me dread a labouring man arriving here with a few pounds; but a remission for passage money might be the means of introducing into this colony a superior class of experienced agriculturists, having families whom they could employ under their own care, in working their own capital to advantage; superior men of this class would not like to come out as bounty emigrants.

15. Do you think the promise of 200 acres of land would operate as an inducement to that class of persons to emigrate to this colony?—Yes; but I do not think so large a quantity of land would be necessary, as that would exceed in value what ought to be paid for passage money; at the same time, I do not think this plan could be carried out to any extent.

16. Do you approve of the introduction of female immigrants?—Very much, under proper arrangements.

17. What plan would you suggest for their introduction?—I would propose that they should be sent under the guardianship of respectable ladies, who would exercise parental control over them; I consider there would be no difficulty in meeting with highly respectable persons who would undertake the charge, and feel an interest in their welfare, such as the widows of clergymen and military officers, who might be desirous to make an addition to their income. It might be desirable, that the first voyage, only 50 females should be consigned to the lady superintendent's care, and that she should receive for each ; the second voyage the number could be increased to 100, or as many as the lady could manage. The object of government should be, to keep experienced and respectable persons in this employment; I quite disapprove of females coming out under what is called the protection of families.

18. By Mr. *Cowper.*] How would you fill up the ships?—With married families; I would have no single men sent out in the same ship with single women; I would beg to suggest, that clause No. 3, of the Immigration Regulations, should be modified, which says, that "the sum of 19*l.* should be allowed to every unmarried female domestic, or farm servant above 13 and under 30 years of age, coming out under the protection of married persons;" the parties to whose protection these females are nominally entrusted, very frequently neglect the girls, and care nothing about them; they have no patience with the young women, and turn them off as soon as they can.

19. You do not think it has acted beneficially, by introducing a sufficient number of unmarried females, who, from their character, have been an advantage to the country?—I think we shall never be able to procure a sufficient number of respectable females, while Rule No. 3 stands as it does now.

20. Then you think it acts as a bar, rather than as an encouragement to respectable females?—Yes; my opinion is, that great numbers of young women of good character would be willing to come out under the charge of a respectable lady, whose friends would not for a moment entertain the idea of placing them under the charge of families, of whom they could know nothing until they met them on board ship.

21. By Dr. *Lang.*] Are you not aware that in many cases alleged to be in conformity to this rule, the protectors were merely selected to meet the views of the agent?—Yes, a number of the young women informed me, that they never saw the parties to whose care they were consigned, until they met them on board ship.

22. By the *Chairman.*] Do you think respectable girls would come out?—Certainly, I do think so; there are thousands of young females in the United Kingdom, the daughters of highly respectable persons, who must earn their own living, and they would come to this colony to better their circumstances; under a good system the very best girls would emigrate. In consequence of the delay and difficulty at times in readily filling a ship, I would deem it advisable that emigrants should be sent in smaller parties than at present.

23. By Dr. *Lang.*] Do you think the same comforts and facilities could be afforded to immigrants if they were not coming out in such large numbers?—Yes; in many ways it would be an advantage.

24. By Mr. *Cowper.*] Would there not be some difficulty in bringing part merchandize and part immigrants?—No, I apprehend not, under judicious regulations; there is another evil I would respectfully beg to point out to the committee; under the present system a number of persons are called upon to pay a sum in addition to that paid by Government for their passage; I have here the statement of a man who brought out with him four daughters, from 16 to 25 years of age, who was obliged to pay 4*l.*, which sum he borrowed, and has to repay it from his daughters' wages.

25. Are you aware that evil has been carried out to a great extent?—Several complaints have been made to me; I have been informed of some cases where parties connected with emigration have taken even 6*s.*

from

from poor emigrants; I beg to hand the statement of a man who came out to this colony with eight children; the money necessary to meet this demand was lent to him, and he has to repay it from his wages; the following is his account of the sums charged, in addition to the bounty paid by Government:

For myself	£. 20
For my wife	15
For my son, 13 years old	10
For three daughters, from 4 to 11 years old	6
For four daughters, from 16 to 25 years old	4
	£. 55

The man stated that if he had been aware he would have been subjected to such charges he would not have left home, but, having given up his farm, and having got all his baggage on board ship, he was obliged to submit; in a letter to my address this individual states that many persons, of a less useful class than himself, he being an old agriculturist, had obtained free passages; the case of this man I brought to the notice of Government.

26. By Mr. *Cowper.*] Are you aware whether there is any difference made at the different ports of embarkation, or whether the agents all make the same demands?—I am not aware what the difference may be.

27. By Mr. *Lowe.*] What is your opinion of the system of bounty emigration?—I think it is a very bad one, thoroughly bad.

28. Can you suggest a better?—At present I am not prepared to suggest one; but I purpose at a future period to submit one to the Honourable the Commissioners for Emigration; I wish first to ascertain the actual demand for labour, which I shall be enabled to do when I visit the districts, as well as what employers of labour will do in a system of country dispersion; for to have a good system all must help.

29. Do you think ships should come to Sydney in the first instance?—According to the present bounty regulations, the emigrants must come to Sydney, in order to appear before the Immigration Board; but I formerly suggested that a due proportion of the immigrants should be immediately dispersed into the interior; it would, however, be far more economical, judicious and satisfactory if the immigrants were to be landed at the different seaports on the coast, where a local board could be appointed to arrange all minor details; but, in the event of a board of inquiry being necessary, it might be desirable that the immigration agent, as chairman of the board, should attend to conduct the proceedings and watch over the interests of the immigrants; the present system tends to crowd Sydney.

30. By Dr. *Lang.*] Are you aware there has been a considerable emigration from this colony to Valparaiso during the last year or two?—I am.

31. By Mr. *Lowe.*] Was there not an error committed in sending out those men; were they a class of men who ought to have been sent out?—Too many mechanics were amongst them, and persons who were rather above common labour, and yet had not sufficient capital to work for themselves; it is the poor peasantry that are wanted in this colony; it is evident that there is a great want of system in the selection of emigrants for this colony.

32. By Mr. *Cowper.*] Have you reason to believe that their expectations were realised when they arrived in this country?—No, many of them were grievously disappointed; they came out expecting too much.

33. By Dr. *Lang.*] Do you not think, if a greater degree of zeal and energy had been exercised on their behalf, the greater part of these persons might have been retained in this colony?—I have no doubt of it, for I think, if active measures had been taken in removing these individuals into the interior, places could have been found for them, for in every effort I made in withdrawing the people from Sydney I succeeded in finding situations for them; and I may be permitted to remark, that some of the families whom I removed from the city were at the same time supported by public contribution; in the country, however, they received wages, from 12*l.* to 24*l.* per annum, with double rations; at the same time, it must be borne in mind that there are prejudices against the interior which no system of country dispersion can remove; reducing the number of police magistrates has increased the influence of the private benches, and the men have a feeling in favour of having a paid magistrate in the district; I will read to you the statement of an individual, who expresses the sentiments of a numerous class.

34. By the *Auditor-general.*] On the whole, do you consider that the majority have improved their circumstances by emigrating to this colony?—Desirous of confining myself to my collection of facts, it was my intention (but I really cannot find time to do all I wish) to lay before the committee a table showing the ratio at which men leave the labour market; I am, however, enabled to state that 24 per cent. of immigrants leave the labour market in four years.

35. By Mr. *Cowper.*] And become employers of labour?—No; it generally takes six years before that can be done to advantage; I have reason to believe that there are now upwards of 2,000 prepared to leave the labour market, when they can meet with a favourable opportunity; it would be very desirable that immigrants should have more encouragement to remain longer in service.

36. In what way?—At present about 30 per cent. invest their savings in cattle; now, if upon making a purchase of 50 acres of land, they could be secured a run for about 200 head of cattle, upon a proportionate scale, as the flockmasters have their stations, men would be induced to remain longer in service, in order to purchase this land, and be enabled to stock it.

37. Could not the men take out a squatting license?—Some do this, but as one individual has not stock sufficient, the consequence is, that several men club together, and thus have their home feelings destroyed, as numbers of them are uneducated; what, therefore, would be desirable to see, would be the establishment of a system which would tend to make their moral advancement keep pace with their improved circumstances.

38. Do you think the colony capable of supporting a dense population?—I do: I have seen splendid crops of wheat in my travels through the country.

39. By Dr. *Lang.*] Do you think, if arrangements could be made by which persons of the humbler classes might purchase 50 acres of land, their circumstances would be improved?—Fifty acres would not be enough; a farm to pay must have a dairy, and a run for the increase of stock; for want of a small run many of these people will retrograde in their circumstances; a statement now in the hands of the chairman shows what a man can do in the labour market by steady industry; he emigrated in 1839—had no money on his arrival, and he is now an employer of labour; his farm pays, but he has not a sufficient run for his cattle; to obtain a station he must move from his farm; he is now able to attend church, and his children are within reach of a school, but by becoming a squatter, he would, in all probability, be compelled to forfeit these advantages.

40. By Mr. *Cowper.*] Is it not the practice, when a man has got a number of cattle that he cannot feed upon his master's station, to get some friend at a squatting station to take them upon certain terms?—Yes; I know some men who are paying from 5*s.* to 12*s.* a head per annum.

41. By Dr. *Lang.*] Do you think in the agricultural districts, it would be desirable to have a numerous population settled upon small farms?—Yes; it would be desirable; but it would add materially to their interest that they should be located in the neighbourhood of sheep stations, as they would then have many opportunities of earning money by carting wool and tallow to Sydney, and by employment during the shearing season.

Mrs. *C. Chisholm.*

4 September 1845.

COMPARATIVE STATEMENT of Wages in *Ireland* and *New South Wales*, of one Family, consisting of Ten individuals, taken from the Voluntary Information Papers.

Wages received in *Ireland* in 1840.

	£.	s.	d.	
The father received	6	–	–	and his food.
His eldest son received	3	10	–	,,
His second son received	3	–	–	,,
His third son received	3	–	–	,,
His eldest daughter received	3	–	–	,,
His second daughter received	1	10	–	,,
Amount of Wages in Ireland	£.20	–	–	per annum.

N. B.—The father, out of the above sum of 20*l.*, had to support three children and his wife; had besides to pay 2*l.* a year for cottage and turf.

Wages received in *New South Wales* in 1842.

	£.	s.	d.	Weekly Rations. Meat.	Flour.	Tea.	Sugar.
Husband as shepherd, and his wife as hut-keeper, received	20	–	–	15 lb.	15 lb.	8 oz.	4 lb.
His eldest son, as shepherd, received	15	–	–	10 lb.	10 lb.	4 oz.	2 lb.
His second son - ditto - ditto	15	–	–	10 lb.	10 lb.	4 oz.	2 lb.
His third son - ditto - ditto	14	–	–	10 lb.	10 lb.	4 oz.	2 lb.
				45 lb.	45 lb.	1¼ lb.	10 lb.
His eldest daughter, house servant, received	14	–	–	The daughters received their board, lodging and washing.			
His second daughter - ditto - ditto	12	–	–				
His third daughter - ditto - ditto	10	–	–				
Amount of wages in New South Wales	£.100	–	–				
Ditto - ditto in Ireland	20	–	–				
	80	–	–	Balance in favour of New South Wales.			
Saved the cost of cottage and turf	2	–	–				
	£.82	–	–	Total Balance in favour of New South Wales.			

VALUE of RATIONS supplied Weekly, at Market Prices.

	£.	s.	d.	
Meat, 45 lbs. at 2½*d.* per lb.	–	9	4½	
Flour, 45 lbs. at 2½*d.* ,,	–	9	4½	
Tea, 1¼ lbs. at ,,	–	3	9	
Sugar, 10 lbs. at 3*d.* ,,	–	2	6	
	1	5	–	weekly.
	£.65	–	–	per annum.

N. B.—In New South Wales the father had to support two children.

EXTRACTS.

No. 63.

STATEMENT of *W*—— *D*——, Parish of ————, County of ————.

Arrived in 1841; had no money on landing; was engaged as farm servant nine days after my arrival at the following wages:—20*l.* a-year, and a weekly ration of 12 lbs. flour, 10 lbs. meat, 2 lbs. sugar, ¼ lb. tea. I have now eight head of cattle, and am worth in cash 30*l.*; the highest wages I ever received before I emigrated to this colony was 3*l.* 10*s.* a-year; I am well known to ————, and to ————; I subscribe to a school and the "Colonial Observer;" since in this colony I was out of employment about three months; but I must say it was nearly my own fault. I refused, as Mrs. Chisholm knows, 15*l.* a-year and rations; I am now receiving 20*s.* a week and board myself; have a nice house free of rent.

Remarks by ————:—I have known ———— for some time, and believe him to be a man who would not tell a story. (Signed by ————.) I am from ————, and am well known to ————.

Remarks by Mrs. Chisholm:—W—— D—— is well known to me as a very hard-working industrious man; he is very kind-hearted, and assisted many poor persons during the season when such numbers were unemployed in Sydney; he is a single man.

The original statement will be sent to his relations.—C. C.

No. 28.

STATEMENT of *S*—— *N*——, Parish of ————, County of ————.

Arrived in November 1841; had no money on landing; was engaged as housemaid, wages 16*l.*; the highest wages I received at home was 5*l.*; I lived with ———— for five years; I wish to have out my mother, brothers and sister; they live at No. 139, North King-street, Dublin.

Remarks

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Remarks by employer :—S—— N—— served me as cook for one year and one month, during which time she conducted herself with perfect honesty and sobriety, in all respects with great correctness; I consider her as a good cook; she can bake bread well.

(signed) *J*—— *P*——.

Remarks by Mrs. Chisholm :—I have much pleasure in stating, that S—— N——'s conduct has been good in all respects since her arrival in the colony; she and her sister have sent home 20*l.* to their mother; also lent 3*l.* to a sick immigrant, since dead; has a good box of clothes, and 5*l.* in money.—January 1844.

N. B.—S—— N—— is now well married; she paid me her wedding visit last week; her dress was neat and handsome; girls like N—— are sure of doing well in this country; it is always desirable that the young women should have been in service previous to being sent to this colony.—30 September 1844.

The original statement will be sent to her relations.—C. C.

No. 73.

Statement of *A* —— *F* ——, Parish of ————— , County of ————.

Came to this country in 1839; on landing, my money and property were both about 30*l.*; was engaged two days after my arrival at 24*s.* per week, afterwards 30*s.*, out of this got my own food; when I had been three months in service was engaged as overseer; commenced for myself with the sum of 40*l.* on a clearing lease of 10 acres, rent 10*l.* a year; this land I have since purchased for 70*l.*; have about half the sum paid; I have three horses, two carts and a dray, 10 goats, a number of poultry, and have a tolerable house of my own; my daughter is in service receiving 16*l.* and her table; two of my sons work for me; I employ two labourers, giving them board and lodgings, and 8*s.* a week; if I had the capital I could employ more with profit to myself; my young children I send to school, and pay 6*d.* per week each.

I wish to have out my two daughters, Mary and Anne, and I should be very glad if my sister's sons were here; I have a brother would do capital here; they live at ————— and are well known to ————.

Remarks by Mrs. Chisholm :—Is a widower.

The original document from which this statement is taken, will be forwarded to the Rev. M. Lloyd, parish of Horsely, Gloucestershire, England.

No. 67.

Statement of *T* —— *B*——, Parish of ————, County of ————.

Arrived in Sydney on the 7th February 1840, with 1*l.* in my pocket; was 34 days without employment; was engaged at 20*s.* a week, no rations; remained in this service two years; received my wages regularly; have three young children; my wife is a good helper; manages a dairy for me; makes 10 lb. butter a week; I am well known to ————— and to —————; lived in that gentleman's service five years before I emigrated to this colony; I consider I am now worth 100*l.*; I wish to have out to this colony my two brothers, their wives and families, and also my mother-in-law; they live in ————

Remarks by ————, late of the town of ————: I have known T—— B—— for a length of time, and I believe him to be a man that would not tell an untruth.

Remarks by————: I have known T——B—— to be a wise, sober, well-conducted man, for the term of three years.

The original statement will be sent to his relations, per favour of —— Baird, Esq., solicitor, Glasgow.—C. C.

No. 60.

Statement of *H*—— *M*——, Parish of ————, County of ————.

Arrived in this colony in————, had no money on landing; in 1814, entered service; received as wages 10*s.* per week, and found my own food; my first purchase was 60 acres of land, for which I paid the sum of 40*l.*, this was in 1819 or 1820; owing to a bad order, I lost the fruits of several years' industry. I have 80 or 90 head of cattle; 600 acres of purchased land, of which I have let 240; I cultivate 30 acres on my own farm; employ two labourers; give them their food, and pay them 12*l.* and 13*l.* a year. I can afford to pay men 15*l.* per annum; my property is now worth about 1,500*l.*; I was a labourer before I came to this colony; have no children, but have reared a family of nephews and nieces; my wife renders me every possible assistance, and it is to her good management I am indebted for the success of our united exertions; I cured one ton and a half of beef last year. I subscribe to a newspaper, and to the support of a district surgeon.

Remarks by the Police Magistrate :—I have known Mr. ————— and Mrs.————, for upwards of five years; they are honest, industrious, respectable characters; to my knowledge they have given away 35 acres of land, and expended upwards of 300*l.* for the advancement of religion in their district; there is an evidence of what steady industry and honesty can effect; their house is the best furnished, the cleanest and tidiest in the ———— district.

Remarks by Mrs. Chisholm :—It will be observed that M——— never received high wages, but has made his money by attending, with steady industry, to his farm.

The original document will be forwarded to Sir Richard Bourke.—C. C.

No. 78.

Statement of *F*—— *O'*——., Parish of————, County of ————.

Arrived in Sydney in December 1841; had 1*l.* 1*s.* in my pocket on landing; was four months out of work in Sydney; then engaged at 24*s.* per week; have been frequently out of employment; my wages have been various; I had in one place 10*s.* a week, lodgings and food; I am now receiving 15*s.* and find my own food and lodging; the highest wages I ever received as labourer at home was 2*s.* a day, the lowest 6*d.*, and found my own food; I am worth about 6*l.* with my furniture; I was born and bred in ————, and am

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am well known to ————, and to ————; there are plenty of schools in Sydney supported by the Government, and children can get educated for nothing, if their parents are poor. I wish to have out to this colony ———— and my brother; he lives with ————, in the town of ————, county of ————.

The original document will be sent to his relations.—C. C.

No. 83.

STATEMENT of *C*—— *D*——, Parish of ————, County of ————.

When I received my ticket, No. ——, dated ———— 1842; I had not a farthing in the world; I then engaged with Mr. ———— (*see* Voluntary Information, No. 59), at 20*l.* a year, and rations at 12 lb. meat, 12 lb. flour, 2 lb. sugar, and 4 oz. of tea per week; he paid my wages well. I am now in the service of Mr. ————, a native of the colony; pays his wages well; my agreement is out on the 28th of this month, August 1845, when I expect he will give me 20*l.*, as two young men were engaged the other day at 18*l.*, and they were new hands; my employment is as a shepherd; I have two mares and a foal; my master does not charge for their run; he would not object to my growing an acre of wheat; I have purchased some cattle from Mr. ————, of ————, and Mr. ————, of ————; I have now 16 head of cattle, old and young; I was married in the parish of ————, by the present Bishop of ————, and am well known to ————, and ————; the highest wages I ever received in ———— was 8*s.* per week, and had to purchase my own food; I hope the Government will be kind enough to give my wife a passage, for indeed I would keep her well; my eldest son is aged 21; my second 18; my daughter 16; I wish them all to come, and will send them some money to clothe for the passage; I have about 20*l.* in master's hands; his cheques are good, his orders are good; if I should die before my family arrive, my advice to my children is, that on their arrival in this colony that they proceed at once to Mr. ————'s station, and take his advice; to any of my countrymen coming here, I recommend them to get into Mr. ————'s service if they can; I can neither read nor write, but as a sure token by which my friends may know this comes from me, I was ————; if my friends were here, they would do better than at home; have better eating and drinking; they could be reared more respectably.

Remarks by Mrs. Chisholm:—This man is reported to me as bearing a good character; but in consequence of the expense of postage, I have not been able to obtain a certificate of character from the magistrate of the district, or his employer; when received, it will be appended to the original document. When the poor man spoke of his wife and children, trickling proofs gave evidence of his affectionate feelings, and in the most earnest manner he entreated that I would spare no trouble to get his wife and children sent out to him. I promised to see them, and do all I could.

The original document will be forwarded to his friends.—C. C.

No. 49.

STATEMENT of *J*—— *D*——, of New England.

Arrived in 1839; had 3*l.* 10*s.* in my pocket; was engaged the same day at 40*l.*; remained four years in the service; had 100*l.* when I commenced for myself; I work on my farm, and have four of my own family to help me; I employ one man at 18*l.* and his food; I could employ more, and afford to give 20*l.*; to women, 10*l.*; my property is worth 300*l.*; I cure two tons of beef in the year; my wife makes about 10 lb. butter a week; I have relations I wish to get out.

Remarks by the Police Magistrate:—J—— D—— has been without the boundaries of the colony ever since his arrival.

(signed) ———— J. P.

The original document will be forwarded to his relations.—C. C.

No. 79.

STATEMENT of *G*—— *B*——, Parish of ————, County of ————.

Arrived in 1821; had no money; was in service for some years; when I commenced business for myself had 100*l.*; have now 50 cows, 20 horses, 190 acres of rich land; I cultivate 80 acres; employ from four to six men; wages 14*l.* to 20*l.*, with rations; believe my property to be worth 2,000*l.*; I subscribe to all public institutions in the district; I have relations I wish to have out; I am a widower; I have educated a family.

Remarks by the Police Magistrate:—I certify that I have known ———— for 15 years as an industrious farmer, and have no doubt but his answers are correct.

(signed) ———— P. M.

N. B.—My handwriting is well known to ————, Grenadier Guards.

The original statement will be forwarded to his friends.—C. C.

No. 46.

STATEMENT of *J*—— *M*——, Parish of ————, County of ————.

Arrived in 1841; remained 16 weeks in Sydney, receiving rations from the Government; Mrs. Chisholm sent me with 74 others up the country; I was engaged as farm labourer, my wife to do the washing of the family, at 30*l.* a year; I am still in the same service; have 25*l.* wages, and weekly rations of 15 lbs. meat, 25 lbs. flour, 2 lbs. sugar and ¼ lb. tea; I am allowed a rood of ground, on which I work after hours, and grow vegetables for my family; I have a neat cottage, rent-free; wood and water brought to the door for use; I send my six children to school, and pay 6*d.* a week for them; my wife washes about 12 dozen of clothes a week; I get milk for my children for nothing; all my money I have bought cattle with from my master, who gives them a free run, as it was a part of my agreement when I purchased the cattle; I have been to Sydney, and laid out 3*l.* for my family; I have some neat household furniture; I could not have obtained more than 6*l.* a year wages where I came from; I have now about 30*l.* in cash; my landlord's name at ———— was Darcy; my next door neighbour was John M'Mairn; I am well known to William B——, and David M—— was once my landlord; my handwriting is well known, and there is nothing I say but what the

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the neighbours willtake as truth, as I am pretty well known where I come from, ———; I would like to have out my brother C———; he is a single man; John F———, a single man; they would get 16 *l.* a year each and a single ration, which is 10 lbs. meat, 10 lbs. flour, 2 lbs. sugar, ¼ lb. tea, and from what I see, wages will rise; I would like out my father-in-law; his name is ———; he has four daughters; it would be my wish they should get married at home, and then they would do well here; I would be glad to see out my brother John's family; he has four daughters, but they should be married at home; my rations have always been of good quality, and my master does not object to my buying extra rations elsewhere; I could also obtain my money at any time; master's orders and cheques are good; never charged money for discounting.

The original statement will be forwarded to his friends.—C. C.

No. 5.

Statement of *D—— A——*, Parish of ———, County of ———.

I arrived in 1841; had 7 *l.* on landing; was engaged by Mr. ———, of Bathurst, as shepherd; remained in his service two years; had 30 *l.* when I left, which I did at my own request; I was two months out of work; at the end of five months returned to my old master; he is the best master in the colony; you can't match him; he is a native of the colony; I am receiving 18 *l.*, with a weekly ration of 10 lbs. meat, 10 lbs. flour, 2 lbs. sugar, and ¼ lb. tea; I have a fine mare and foal, my own; I have no wife to assist me; must be married before I can save money; if my brother were here he would readily obtain wages, 17 *l.*; I could assist my brother if he were to come, so far as 14 *l.*

Remarks by Mrs. Chisholm:—Is a fair specimen of the class of men suited to this colony; he had been reared to work hard at home.

The original statement will be forwarded to Mr. Terence Farrelly, Enniskeen, County Cavan.

No. 47.

Statement of *J—— M——*, Parish of ———, County of ———.

Arrived in 1838; had 3 *l.* on landing; was engaged the same day at 25 *l.* a year, and rations for family; was 12 months with ———, at the above wages; eight months with ——— for 28 *l.*, and had rations for family; commenced for myself with ———, on a lease of 35 acres, which I cultivate; have now 50 head of horned cattle and two horses; my two sons work for me; I have about 70 *l.* in property; I could afford to employ men at 15 *l.* wages and rations; I would like to have out J. G—— and my brother-in-law.

Remarks by the Clergyman:—I certify, that having carefully considered the subject of this paper, with the remarks of ———, Esq., P.M., that the same are worthy of every attention. My experience in several parishes in England, both country and metropolitan, enables me to speak positively to the very great advantage which this country holds out to the sober and industrious peasant. I have now been ministerially engaged in extensive and locomotive duties in this colony for upwards of five years; and my opinions formed in England, in favour of emigration upon a well and humane arrangement between the Government and the parishes for the relief and well-being of its overplus population, remain confirmed. For extent, fertility and climate, no part of the globe is superior to it. It is right to add, that encouragement, and not obstruction, should be held out to capitalists.

(signed) ———, Colonial Chaplain.

Remarks by the Police Magistrate:—I have not the least doubt that any industrious emigrant coming to this colony will greatly improve his condition, but their families should not be large; at present, throughout the colony, there is great want of female servants, owing to those that have already come out being married; and there is not more than one case in eight where a woman does any thing but attend to her own family after marriage.

(signed) ———, P. M.

The original document will be forwarded to his friends, per favour of Rev. D. Macleod, Glasgow.—C. C.

Statement of *J—— N——*, Parish of———, County of ———.

Came to the country in 1840; had 3 *l.* on landing; was engaged at 80 *l.* a year as ——— (no rations); a good house rent-free; one acre and a half of land; in this situation I gave satisfaction, and could have kept till now, but left, thinking I could do better in Sydney; after some time engaged as tutor in a family; was dismissed from this situation; could not recover my wages. I would like to have out my brothers, James and Richard; if they were here they would get from 20 *l.* to 30 *l.* as servants; good servants do better here than clerks; it will be understood that servants get their diet and lodging; during the season when so many were unemployed in Sydney, I refused a situation of 8 *s.* a week and house rent-free; also two similar situations offered to me by Mrs. Chisholm, thinking it better to wait, in hopes something better would offer.

Remarks by Mrs. Chisholm:—He holds good characters, but is not strong enough for labour, never having been used to it.

The original statement will be forwarded to his friends.—C. C.

Statement of *A—— M——*, Parish of———, County of ———.

Arrived in 1836; was hired at home by Sir George M———, Bart., wages 25 *l.* per year; I was reared as a shepherd, and am well known at ———, in Rosshire; I wish to have some relations out, they live in ———, my handwriting will be known to my friends; I have 50 head of cattle and 200 sheep; two of my family are able to work, and I have 40 *l.* in my master's hands.

Remarks by the Clergyman:—Having given my remarks on two other papers submitted to me, I have little more to add on this than to express my entire concurrence with the remarks of the Police Magistrate. The vast extent, and I might almost say undiscovered capabilities of this country, with its truly excellent climate, raises in the breast of a minister, who has been extensively acquainted, as I have been, with distress in the mother country, a feeling of deep regret that it has not been adopted as the fruitful field for the redundant labour of England, and at the same time an inducement for the investment of capital;

Mrs. *C. Chisholm.*

4 September 1845.

capital: good to the mother country, happiness to many starving therein, and a satisfactory return for investment of capital, would be the result.

(signed) ————, Colonial Chaplain.

Remarks by the Police Magistrate:—I have allowed the within named party to make his answers to the questions in his own writing; besides having 200 sheep, for which he last week refused 8 *s.* 6 *d.* per head, he has about 40 *l.* in his master's hands; the whole family are allowed as much meat, flour and potatoes as they can eat, with milk, and a large allowance of tea, and sugar, &c., &c.

(signed) ————, P. M.

The original statement of this will be forwarded (to the care of —— Baird, Esq., solicitor, Glasgow) for his friends.—C. C.

John Dobie, Esq., Surgeon, R. N., called in; and Examined.

J. Dobie, Esq., R.N.

1. You are a settler on the Clarence River?—I am.
2. And have been engaged in pastoral pursuits for some years?—Yes.
3. During which time you have had occasion to employ a number of shepherds and farm servants?—Yes.
4. You have seen a considerable part of the colony, I believe, have you not?—Yes, both the northern and southern parts of the colony.
5. Will you state to the committee what you consider to be the capabilities of the colony as a field for immigration from Europe, what advantage does it hold out to the immigrant?—I think it holds out many advantages, inasmuch as it not only provides him with a comfortable competence, but with the means of becoming comparatively opulent.
6. Do you think that the labouring man may, by the exercise of industry, sobriety and prudence, put by a sufficiency to maintain him during old age without labour?—I do.
7. By the *Auditor-general.*] Do you consider any climate in the world to be superior to this?—I do not, for I have been in almost every country in Europe, in the East Indies, and in North and South America.
8. By the *Chairman.*] What do you think of the capability of the country for supporting a considerable population; do you think there are tracts in this colony capable of supporting a dense population?—Certainly to the north there are, upon the banks of the Richmond River, in the lower parts for instance, thousands of acres fit for agricultural purposes.
9. What do you think of the Clarence?—That is more a pastoral than an agricultural district.
10. What is your opinion of New England?—That also is a pastoral district.
11. By Dr. *Lang.*] You have been on the Richmond River?—I have.
12. Is there not a good extent of alluvial land there?—On the lower part of it.
13. Capable of supporting a dense population?—I will not say a dense population, but comparatively a large one.
14. By the *Chairman.*] Can you afford the committee any information as to the state of the labour market at present?—I have been endeavouring to hire men for some days past, and I find great difficulty in getting them; every person is making the same complaint; we are obliged to give 18 *l.* a year for common shepherds, and provide them with their passage down to our stations, and to give them a full ration of 10 lbs. of flour, 10 lbs. of meat, 2 lbs. of sugar, and a quarter of a pound of tea; I cannot get them even on those terms.
15. By the *Auditor-general.*] Do you think pastoral pursuits will yield any profit, after paying those wages?—Very little indeed.
16. By the *Chairman.*] Do you think the demand for labour likely to increase from the natural increase of the flocks and herds of the colony?—Yes, very much.
17. Could you state the probable increase in the demand for next year?—In the district I belong to, we could take 300 or 400, and employ them immediately.
18. You have not made any calculation as to the number the colony generally might employ during the next 12 months?—I have not; but looking to the returns of the quantity of stock in other districts beyond the boundaries, many would require more than the Clarence River district; I dare say Moreton Bay could take the same number; I am certain 400 men could be employed immediately in our district; indeed, there are many establishments standing still for want of men.
19. Do you think if there is no further supply of labour, people will be obliged to boil down their sheep and cattle?—Yes; or throw them into larger flocks and herds, which is not judicious, and must ultimately be injurious to the colony.
20. Is there any want of female servants in your district?—Not much, for there are very few families settled there as yet.
21. Do you think it desirable that females should come out, in order that marriages might be formed with the men living in the interior?—I think there would be plenty of opportunities of their getting respectably married; I think the wages and provisions received by a shepherd would be quite sufficient to enable him to maintain a family comfortably; he has no house-rent to pay, he gets a full ration for himself, and would receive a half ration for his wife, and he has always an opportunity of cultivating one or two acres of ground; the master is always happy to see his servants doing so, for it is an indication of contentment and industry.
22. By the *Auditor-general.*] What number of sheep do you at present keep in a flock?—One thousand.
23. What do you reckon would be the increase of the 6,000,000 of sheep now in the colony, in the year?—I think we might reckon upon more than 1,000,000 increase.
24. Would you have any objection to a loan being raised in England, for the purpose of promoting immigration?—On the contrary, I think the necessity so urgent that we should be justified in raising a loan.
25. By Captain *Dumaresq.*] If you do not get labour from Britain, will you not be compelled to obtain it from India, or from the islands?—We must get labour somewhere or other, and I think there can be no doubt of our being able to pay almost any amount of loan for labour, if the graziers beyond the boundaries are not too much oppressed.
26. By the *Auditor-general.*] Do you think immigration to this colony is equally advantageous to the mother country and to this colony?—I think it is of as much consequence to the mother country as it is to this colony; we both partake of the benefit; I think it is a perfect absurdity for any one to imagine, that it cannot be of advantage to the mother country; nay, looking at the frightful statement lately made in the House of Commons, by Sir James Graham, of the amount of pauperism in England, I think it criminal in the British Government in allowing any part of its population to starve, when one of its colonies, possessing such an abundance of food as we do, would be glad if they will only send the people to work for it, and to eat it; upon the score of humanity this cannot be too strongly urged upon the Home Government; this is, however, taking but a very limited view of the advantages to the mother country—that of merely getting rid of its redundant population. Let the Home Government send us a sound and healthy race, we shall soon turn their labour into a source of profit to themselves, render them happy, comfortable and contented, and the Home Government will soon be repaid by the increased demand for their manufactures.
27. By Dr. *Lang.*] Have you visited any of the British colonies of North America?—Yes.
28. What do you think of the comparative advantages to free immigrants coming to this colony, or going to any of those?—The advantages this country holds out to the immigrant are far beyond those presented by the

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the North American colonies; the two countries cannot be compared in point of climate; here we have a splendid climate and mild weather, instead of a long dreary winter; there the people suffer very many privations. I have been in North America when the people could not work for six or eight months in the year; during the greater part of that time, the country was covered with snow; in this country there is no interruption to a man's labour.

29. Which of those colonies have you been in?—Canada, New Brunswick, Nova Scotia, and also in the United States.

30. Do you think an immigrant coming to this country, and hiring himself out as a servant, has a much better prospect of establishing himself comfortably on his own account, within a limited period, than he would have in any of these North American colonies?—There cannot be a question about it.

31. And also as to the prospect of acquiring wealth ultimately?—Yes; the article of clothing is very expensive in North America, but that is a very trifling expense to men here; the expense of clothing in North America would take up half a man's wages; the article of clothing is almost the only expense a man is put to in this colony.

32. Do you not think that the advantage to the immigrant of having his labour made available for the cultivation of the ground for the whole year in this colony is of great importance?—There cannot be doubt upon this point.

33. Can two crops be obtained in the most favourable situations of the North American colonies during their short summer?—No; that is quite impossible in North America, inasmuch as the summer is not above three or four months in duration; we may have two crops in this colony.

34. By the *Auditor-general.*] Might not fresh sources of industry be opened in your district?—The principal source of industry is pasturage.

35. Might not the vine be cultivated?—No doubt it might, but the district to which I belong is principally pastoral, I am not aware that there is much agriculture there, it being chiefly confined to individual stations.

36. By Dr. *Lang.*] Do you consider the condition of the shepherd a comfortless one?—Certainly not; I think it is a very comfortable and easy life; a man has a comfortable hut, his rations are regularly supplied him, and he has no laborious work.

37. And it affords him a prospect of a comfortable independence?—Yes, I have now men in my employment who have purchased mares, and these mares are in the course of producing stock; these men have been only a short time with me, but have saved their wages.

38. Are you aware whether it is generally the case that shepherds are possessed of stock, to a greater or less extent?—They are principally possessed of horses; their great object is to get a mare; there are a great many of my men who have got money in the Savings Bank; I seldom come to Sydney without paying money into the Savings Bank on account of my men.

39. By the *Auditor-general.*] Do you find the shepherds employed by you generally save their earnings?—Some do, and it is within the compass of all to do so, for they are furnished with every thing excepting clothes and tobacco, and they are clothed with very little cost, but some are indifferent about it.

40. By Dr. *Lang.*] Is the climate to the north favourable for field labour for European constitutions?—It is; I have seen no country where a man may be exposed to the weather with less danger than this; indeed it is a climate very far superior to any that I have been in.

Friday, 5 September 1845.

Present:

Charles Nicholson, Esq., M. D., in the Chair.

The Colonial Secretary.	The Auditor-General.
Charles Cowper, Esq.	Rev. Dr. Lang.
Robert Lowe, Esq.	J. P. Robinson, Esq.

William Dumaresq, Esq., M.C., Examined.

W. Dumaresq, Esq. M.C.

5 September 1845.

1. You have resided in the colony for a number of years, I believe?—Yes, nearly 20 years.

2. You have had considerable experience of the colony, as to its general character and capabilities?—Yes.

3. You have been engaged to a considerable extent in agricultural and pastoral pursuits?—In pastoral pursuits I have.

4. Are you able to speak of the character of the colony, in respect of the prospects of emigrants to this colony, as compared with the prospects of persons emigrating to Canada?—I consider this to be one of the most favourable countries I have seen for the purposes of emigration. I was three years in Canada, and was not by any means pleased with that country as one holding out favourable prospects for emigrants. I formed that opinion principally from the consideration, that during more than half the year the ground is covered with snow, so that field operations cannot be carried on, and during all that time of comparative idleness men acquire habits not advantageous to them as settlers. I was employed with my company of the Royal Staff Corps in making the canal of the Ottawa, to which work the Government sent all the emigrants that arrived at that time. The workmen were all discharged in the month of October or November, and from that time until about May no works were carried on. During this interval of time the recently arrived settlers could do nothing but fall the trees on their little plots of ground, and build their huts as the snow disappeared. They planted their potatoes, and came again to the canal works for employment in the summer. This country, on the contrary, is open for the constant employment of labour all the year round. It was in the year 1819 I went first to Canada.

5. By Mr. *Lowe.*] Is the summer as hot in Canada as it is here?—No, I should not say it was.

6. Is the heat of the summer there a damp or a dry heat; is it oppressive?—It is very hot during the day and oppressive, from the rapid evaporation of a moist surface.

7. The spring and autumn are short, are they not?—Yes, very short.

8. By the *Auditor-general.*] You have considerable stations in this colony, and are acquainted with the districts from Port Macquarie to Moreton Bay, and the table land of New England?—Yes, Port Macquarie, and the table land of New England.

9. Do you consider there is room for a number of agricultural emigrants there?—I think so; I think, generally speaking, that agriculture, although capable of being carried on to a large extent in the part of the colony alluded to, will not be carried on except for the supply of the settlers' own wants.

10. With regard to the banks of the rivers, are there favourable situations there for the cultivation of grain?—There are; I have cultivated grain successfully for the last six years at New England.

11. By Dr. *Lang.*] Do you consider the position of the labourer coming to this colony is equally or more favourable than that of those going to Canada?—I consider the labourer coming here has every advantage over one going to Canada; principally, I should say, from his being employed all the year round.

12. Whether do you consider this colony or Canada affords the most favourable prospect for small farmers working upon their own account?—I am not sure that small farmers of steady habits would not do well in Canada; but I would prefer this country, because of the long winter in Canada, and the temptation thereby afforded to settlers of contracting idle habits and becoming drunkards.

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13. Is there no regular employment during the winter for small farmers?—I am not aware of any, except that of foddering their cattle, preparing stuff for fencing, &c.; when the snow begins to go away, then they can begin to cart manure.

14. Do you think the practicability of having two crops in the year, in favourable situations, is an additional inducement for emigration to this colony?—Undoubtedly; the chief advantage of Canada is the proximity of a good market for their produce.

15. Do you think that, if the English markets were thrown open to the colonial farmer, there would be a very eligible opportunity for the emigration of small farmers, who might direct their exertions to the raising of grain?—If the land could be obtained on favourable terms, I think they might labour successfully in raising grain.

Francis Lewis Shaw Merewether, Esq., called in; and Examined.

F. L. S. Merewether, Esq.

1. You have been agent for immigration for the colony for the last four years, I believe?—I have.

2. Do you consider this colony a favourable field for immigration?—I doubt whether there is any other British colony in which the settlement of immigrants is attended with so few hardships and privations, and in which success is so surely to be depended on.

3. We will take the three principal classes; first, agricultural and farm labourers; then the class of small farmers who might come hither with 100*l.* or 200*l.*, and cultivate the land by their families; and third, the class of capitalists. With regard to the class of farm and agricultural labourers, what is your opinion as to the demand for labourers in the colony?—The want of additional farm labourers and shepherds is beginning to be felt through out the entire colony, and even before the end of the present year the supply of labour will, I am persuaded, be so much below the demand as to occasion great inconvenience.

4. Is this increased demand attended with an augmentation of the previous wages?—Wages are gradually rising; the average rate of the yearly money wages of shepherds and labourers in the middle of the past year (1844) ranged from 12*l.* to 14*l.*; the average is now 17*l.*

5. What is the source of your information?—My information is derived partly from my official records of the engagements of immigrants on their arrival, and partly from returns with which I am periodically favoured by the several benches of magistrates within the boundaries of location, and by the Commissioners of Crown Lands beyond the boundaries.

6. Do you anticipate a still further increase in the rate of wages in the event of there being a failure of immigration?—I have no doubt, that on the expiration of their subsisting engagements, labourers will in every case obtain a higher rate.

7. Of course you refer to the increase of stock in the colony requiring an increase in the labour of the colony?—The increase of stock is certainly one of the chief causes which will occasion the increased demand and competition for labour, and the consequent rise in wages; but it may be also expected, that the general state of prosperity which the colony is now enjoying will give rise to a demand for labour for many other purposes than the tending of sheep and cattle.

8. Do you think that an increased demand for labour without an adequate supply, and the high rate of wages which would be consequent upon that, would be likely to retard the progress of the colony; would it not prevent people from increasing their flocks and herds?—Certainly.

9. Have you any statistical facts to present the committee with?—I can lay before the committee returns showing the particulars of the immigration which has taken place between the 1st January 1844 and the present date, and also a statement compiled from returns received from the several police districts, which will show the rates of money wages given in each district to labourers, of certain specified callings, during the two first quarters of the present year. [*See* Appendix, Nos. 1 to 4.]

10. Does that list of callings comprise both pastoral and agricultural labourers?—It contains the seven callings which qualify persons for free passages to the colony under the existing bounty regulations; viz. agricultural labourers, shepherds, carpenters, smiths, wheelwrights, bricklayers and masons.

11. Has there not been a redundancy of some of these descriptions of labourers; for instance, carpenters, brickmakers and people of that class?—They have been in excess in Sydney, but I am not aware that they have been so in the country districts

12. To what circumstance do you attribute the distress that was complained of amongst artisans and mechanics 12 months ago?—That distress was merely local; there were more labourers in Sydney than could at that time find employment in Sydney; the distress, however, was very much exaggerated; in the month of October 1844, in consequence of a large body of persons daily besieging Government-house, and representing themselves to be without the means of subsistence, the Governor authorized, as a temporary measure, the issue of food from the Benevolent Asylum to persons who produced an order from the Colonial Secretary, and on the 30th of that month 125 families were being fed in this way at the public expense. Work having been then provided at the Cook's River Dam, it was arranged that the issue of rations from the Benevolent Asylum should be discontinued, except to those who went to the work provided, and that to those who did go, 10*d.* per day should be allowed, with rations for themselves and their families, according to the following scale:

	Bread, Loaves of 2 lbs. each.	Meat. lbs.	Salt. oz.	Sugar. lbs.	Tea. oz.	Rice. lbs.	Soap. oz.
Men, per week	5	7	3	1	2	–	3
Women, ditto	2	3	3	½	1	1	3
Children, ditto	1½	3	2	¼	¼	1	2

Out of the 125 heads of families who had been receiving food from the Benevolent Asylum without working, and out of the further number of unemployed persons in Sydney who may be supposed to have shrunk from taking such relief, 34 only accepted the work within two months, and of these several were, I believe, regular pensioners of the asylum, and incapable of doing a day's labour; I do not deny that there were at that time in Sydney a considerable number of persons out of regular work, and probably dependent in a great measure upon others for their support, but as it was proved that there were only 34 who were not in a position to be able to decline 10*d.* per day, with rations for themselves and families, it must be admitted that the then circulated stories of starvation and extreme destitution were, as I always thought them, without foundation in fact.

13. Do you think that, if they had been distributed over the country, the persons who were then unemployed in Sydney could have obtained work?—I am of opinion that they could, and even that the tradesmen could have obtained work at their own trades.

14. What led you to form that opinion?—I expressed my opinion before the committee which sat on immigration in the year 1843, that "a considerable demand for mechanics for building purposes would be created by the mere presence of such mechanics in the districts," as "the introduction of workmen who could minister to it would beget a higher desire for the comforts and decencies of life;" this I stated merely as matter of opinion, but, as a matter of fact, I do not remember that any case has come within my knowledge of an active tradesman having gone up the country and failed to obtain work.

15. Do you not think the circumstance of many of these labourers being burdened with large families prevented them from obtaining employment?—Such was, undoubtedly, the case in many instances.

16. What number of shepherds and farm labourers do you think the colony could receive and employ during the next three years?—In the quarterly reports which I have made to the Government during the last 12 months, I have stated my opinion that 5,000 souls, comprising the usual proportion of adults, would not satisfy the demand which will arise in the colony (Port Phillip included) during the 12 months following this present September.

17. How

17. How many effective labourers do you think that number would yield?—About 1,600 adult males.

18. Taking the average for the next three years?—Not fewer than 10,000 souls in each year.

19. At the present moment the demand and supply are tolerably equal?—They were so at the beginning of the present year.

20. Do you not attribute that in some degree to persons having boiled down their sheep and cattle?—The boiling down must have materially checked the increase of demand.

21. In the event of a resumption of immigration, would you allow bounties upon all these trades in the way it was formerly done, or would you restrict it to a certain number of each?—I would still allow bounties on the introduction of persons of all the callings specified in the existing regulations, but I think it would be desirable to limit the proportion which the number of artisans should bear to the number of farm labourers and shepherds. The persons by whom the immigrants introduced during the past and present years were selected have paid attention to the reports from the colony that tradesmen were not in demand, and the proportion of tradesmen was, in consequence, much smaller than it had been in the great immigration of the years 1841 and 1842.

22. Can you say what ratio you think ought to be observed between these mechanical trades and farm servants; out of a dozen would you have nine farm servants?—I find that, on taking the average of the past seven years, the number of immigrants belonging to the five trades specified in the present bounty regulations have been to the number of labourers and shepherds in the proportion of somewhat more than one-fourth, or, according to the terms of the question, rather more than three in twelve; and I should not recommend that this proportion be exceeded, until it shall prove insufficient to meet the demand.

23. Are there not at present too many mechanics in the colony?—I think not; indeed, I believe that if any public works were to be commenced, the want of a further supply would at once be experienced; I understand that, at the present time, no free tradesmen are employed by the Government or on Government works in Sydney, with the exception of the few men required for the ordinary jobbing work of the colonial architect's department.

24. By Mr. *Cowper*.] All traces of the distress of last year and of the surplus of labour have vanished?—They have.

25. By the *Chairman*.] Have you any thing to suggest to the committee with regard to agricultural servants?—I can only repeat what I have frequently urged in official reports, that persons sent to the colony as agricultural labourers should be really agricultural labourers, taken from the agricultural districts, and not common labourers, or persons calling themselves such, from seaport or other large towns. It is not absolutely necessary that the individuals selected should be of high character as active hard-working men, because a large proportion of those who come out as labourers are hired as shepherds, and a man who might have been considered in England a sauntering, slovenly labourer would make a very good shepherd in this colony; but I do consider it essential that men sent out for the purposes of country work here should have been country bred.

26. With respect to the class of small yeomanry, men who might come out with a small capital of 100*l.* or 200*l.*, and become possessed of small farms, which they might cultivate with the aid of their grown-up children; what are the capabilities of the colony for such a class of persons?—They are a class of persons whose settlement in the colony is much to be desired; and there can, I think, be no doubt that so far as respects the capabilities of the country, there is an ample field for them. The only question is, whether they would have a market for their produce.

27. At all events they would be sure of the means of subsistence?—Yes, so far as food goes.

28. Might not a species of employment be found, that would enable them to carry on their business with advantage; might they not, for instance, grow the vine?—I have no doubt that many such species of employment could be devised, though I think it questionable whether the small farmer from England would be likely to grow the vine with success, except in so far as he might obtain from it a wine for his own consumption. I do not think that he would be able to produce a wine which would serve him as an exchangeable commodity.

29. You think the question would be whether these people could calculate upon getting a sufficient return from their produce?—That is my only ground for doubting whether they could settle themselves here beneficially.

30. Still the expenditure of a farmer coming from England and purchasing land, which land was cultivated by his family, would be almost limited to the purchase of clothes?—It would nearly so.

31. By Mr. *Cowper*.] If a small farmer can produce corn at 2*s.* 6*d.* a bushel, and the English market were thrown open to us, merchants, I presume, would advance 3*s.* 6*d.* a bushel upon it; under such circumstances, might not this class of persons come hither with advantage?—If the English market were open to the Australian corn-grower upon such terms as would ensure to him a sufficiently remunerating price there, if he could not get a better price in his home market, the small farmer might emigrate hither with great advantage. All that is wanted is the certainty of being able to sell at some tolerably well-ascertained price, and such a certainty the colonial market must long be too limited and too unsteady to afford.

32. By the *Chairman*.] Are you aware that a number of expiree convicts from Van Diemen's Land are now being introduced into this colony, owing to the want of labour?—I have heard that such is the case, but I have no official information on the subject. In a letter which I received some months since from the Superintendent of Port Phillip, his Honor speaks of the introduction of labour from Van Diemen's Land (meaning however, I presume, immigrant and not emancipist labour), and of 174 exiles, as having had a considerable effect in reducing wages, and to this cause may be attributed the reduction of wages in the Portland district, in the second quarter of the present year, as compared with the first, which will be observed by the committee in the Return No. 4, which I have handed in. His Honor's words are as follows: "I consider the recent introduction, by associations of private individuals, of labour from Van Diemen's Land, and that of 174 exiles, may have done something towards reducing the amount of wages given to male labourers; but I fear that the effect is only temporary; and that in a very short time the rate of wages will again have to be increased. The greatest want of female labour," Mr. La Trobe adds, "continues to be experienced, especially in the towns and their vicinity."

33. Do you not think great social evils would be likely to arise from the introduction of a great number of men into the colony, without a corresponding number of women?—Certainly.

34. There would be great demoralization, and no permanent increase to population?—Yes.

35. What do you consider the capabilities of the colony as to the eligible employment of capital?—I can lay before the committee a paper compiled from answers from the several police districts throughout the colony, in which will be found, amongst other information having reference to immigration, statements of the principal agricultural productions of each district, the extent to which each district now supplies itself, and what it contributes to the supply of other districts.—[*See* Appendix, No. 5.]

36. What is your general opinion of the capabilities of the colony as an eligible field for the investment of capital?—The question is a general one, and appears to me to admit only of an answer most favourable to the colony.

37. You admit the necessity of a supply of labour; what means can you devise for bringing it out here?—When the questions now under consideration respecting the tenure of Crown lands beyond the boundaries are settled, the Government will have the means of raising a loan for the purpose, and I hope that it will do so.

38. By Dr. *Lang*.] Do you think that the only source from which immigration can be obtained for some time to come?—My opinion is, that the colony ought not to pay the whole of the immigrants' passage-money, but that some portion of it should be defrayed out of parish funds or parish and county funds together; and I cannot

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cannot but think that the parishes would contribute readily and freely, if they were once set in motion under an organised system

39. By the *Chairman.*] To what extent do you think they might?—I think that they might contribute at least as much as it would cost to send emigrants to the North American colonies. In the Tenth Report of the Poor Law Commissioners, published in 1844, I find the bounty emigration to this colony spoken of as follows:—"The re-establishment of the bounty on emigration to Sydney and Port Phillip in last autumn has been the means of facilitating the emigration of poor persons, under our orders, with respect to a considerable number of agricultural labourers; and many parishes have, during the last quarter, availed themselves of this opportunity of relieving themselves of some of their surplus population." This passage must, I think, be taken as an admission, that the removal of their surplus population to this colony has been a benefit to the parishes referred to, and it would seem but reasonable, that as they confessedly shared the advantage with this colony, they should also have borne their share in the expense of removing the emigrants hither. The cost of emigration to this colony may be divided into four parts: first, the cost of the outfit necessary for the voyage; secondly, the cost of conveyance to the port of embarkation; thirdly, the cost of their passage to the colony; and, fourthly, the cost of the immigrants' maintenance in the colony, until they can obtain employment. The last-mentioned portion of the cost is now included in the contract price paid for the passage of the emigrants, the contractors being bound to keep them on board the ship for ten days after their arrival, if necessary; but I have distinguished it, because I think that it appears clearly, from the report of the Poor Law Commissioners, to which I have before adverted, that this part of the expense, comparatively trifling though it may be, ought, in fairness, to have been defrayed out of the parish funds. The commissioners remark—"We have seen reason to make one alteration in the terms upon which we sanction emigration out of the parochial funds to the Australian colonies. As it has been deemed improper both to the emigrant and to the country to which he is to be removed, that he should be landed in a totally destitute condition, we have hitherto required, in all cases, that a sum of money should be provided, to be paid to the immigrant on landing, sufficient for his maintenance for a short time, until he may reasonably expect to find employment. It was represented to us in several quarters, that, in regard to the Australian colonies, the demand for labour was so great, that the emigrants had usually offers of employment immediately on the arrival of the ship on the coast; that in such cases the knowledge of the right to the money on landing induced those emigrants who were sent out by parishes to refuse eligible offers, and tended to embarrass the parties who were desirous of hiring them, at the same time that it created feelings of dissatisfaction on the part of those persons of the same class who, though not brought out at the cost of their parishes, were, nevertheless, bounty passengers. After consulting the Emigration Commissioners upon the subject, we thought it right to withdraw that condition, in respect of emigrants to those colonies." The withholding the sums from the emigrants themselves, is unquestionably a proper regulation, as respects this colony, not only for the reasons stated by the commissioners, but also because all requisite provision for the emigrants' maintenance is made by this government, but it seems clear that the sums withheld from the emigrants should not have been kept in the parish coffers, but should have been placed to the credit of this colony. I hope, however, that the contributions from the parishes may not be limited to the sum requisite to defray this small portion of the expense. The cost of the emigrants' outfit might, I think, in most cases, be defrayed by themselves, out of the proceeds of the sale of their furniture, &c., and contributions from individuals. Of the sum of the three remaining portions into which I have divided the expense of bringing emigrants here, I think that the parishes should pay one-third, or about six pounds per head. If this arrangement were carried out, it would not only cause a saving to the colony equal to the portion of the expense defrayed by the parishes, but it would cause also a further saving, in the reduced price at which the contracts would be taken, as a large portion of the price might be paid in England on the embarkation of the emigrants, and the receipt of that portion would be certain, being of course unaffected either by deaths on the voyage, or by the refusal of bounties here. The payment of the portion to be defrayed by the colony would of course depend, as it now does, upon the government's approval of the individuals selected.

40. By Captain *Dumaresq.*] Have you not found that the ten days' maintenance provided for immigrants is enough—are not very few disengaged after that time?—Very few in any case, and in some cases none at all. During the past and present year, the numbers left unengaged in the Sydney ships, after the first four or five days, have been very inconsiderable, and those who were left were of inferior eligibility. The single males and females were generally hired within two days.

41. By Mr. *Cowper.*] Can you state the number of immigrants imported during the last year?—The number imported between the 1st January 1844 and the present date is 4,636 as shown in the Returns 1 and 3, which I have laid before the Committee.

42. Can you state whether any steps are about to be taken by the government for introducing a fresh supply of immigrants?—I am not aware that any steps have as yet been taken either by this or by the Home Government.

43. Then you consider immigration for the present stopped?—I know nothing to the contrary.

44. How do you mean that the settlement of the questions respecting the tenure of Crown lands beyond the boundaries, to which you have alluded, would tend to the formation of a good fund for immigration?—It would afford a certain revenue, upon which a loan might be raised.

45. By the *Chairman.*] Do you think any fund could be provided by the sale of land at the present prices?—In the course of two or three years the revenue arising from the sale of choice lands and town allotments may, I think, amount to a considerable sum, though far from equal to the support of immigration to such an extent as the interests of the colony will require. I see no reason why land required for cultivation should not be sold at the present price.

46. By Mr. *Cowper.*] Considering the distance produce would have to be carried to market?—The distance from the market is a matter of calculation for the purchasers, and certainly the price being 1*l.* per acre instead of 5*s.*, would bring the limit beyond which it would not answer to buy land for the purposes of cultivation so much nearer to the market as would make a difference in the cost of carriage equal to the difference between the profits on an outlay of 1*l.* and an outlay of 5*s.*, and so far the present minimum price would restrict the buyer's choice more than the price of 5*s.* would; the restriction, however, would not, I conceive, be a very considerable one.

47. By the *Chairman.*] Do you think any fund could be raised by the sale of pastoral land at the present upset price?—Certainly not; the immigration fund would be derived from the sale of agricultural lands and town allotments, and from the rent of pastoral lands.

48. By Mr. *Cowper.*] With reference to the disproportion of the sexes and the demand for female servants, do you think it would be advisable to import any ship loads of females exclusively?—I am disposed to recommend that single females who do not emigrate in company with near married relatives should not come to the colony in the ordinary emigrant ships, but that they should be sent out separately, under the superintendence of a certain number of married couples, specially selected for the purpose. In these ships no single male emigrants should be admitted, and particularly no unmarried male cabin passengers. The surgeon and officers appointed to these ships should of course be persons on whose propriety of conduct the utmost reliance could be placed.

49. How many single females do you think it would be desirable to import?—The demand for female servants is now very great, both here and at Port Philip.

50. But looking to the inequality of the sexes?—I do not think that it would be expedient to introduce single females in excess of the demand for female servants, for the purpose of hastening the equalization of the sexes.

51. You think it would be desirable to have a few ship-loads of female immigrants?—I do.

F. L. S. Merewether, Esq.

5 September 1845.

52. How many do you think it would be desirable to introduce?—One thousand in the year might safely be landed at Sydney, and from 400 to 500 at Port Phillip.

53. Can you suggest anything to the committee as to the mode of selecting them in the mother country?—I am informed that the difficulty of procuring female servants for the colony is very great, and certainly those sent out during the past eighteen months were generally very inferior in every respect to the male immigrants. Some of the female orphan institutions of the mother country might perhaps supply useful servants; but I am not sufficiently informed upon the subject to do more than throw out the suggestion.

54. By the *Colonial Secretary*.] Under what arrangements should females be placed after their arrival in this colony, so as to ensure their due protection until removed to respectable situations?—I prefer the present arrangement to any other; namely, that they should remain on board their ships until they have obtained situations, supposing, that is, that they be not introduced in numbers beyond the immediate demand. They should, however, be kept under the same discipline as during the voyage, and the surgeon should exercise a strict surveillance over them.

55. You think there would be great danger if there were an excess of females over the demand for servants?—I do; I am decidedly of opinion that the number of females sent should be regulated by the demand for female servants, and that they should not be brought out in numbers exceeding the demand for the purpose of hastily removing the existing disproportion between the sexes in the colony, or rather among the older colonists, for among the bounty emigrants, who form, I believe, more than a moiety of the population, the disproportion does not exist; and I may remark that this disproportion itself tends to keep the demand for female servants in a state of constant activity, by the stimulus which it affords to marriage; the female immigrants soon get married, and then of course leave their places.

56. And that, in itself, causes a fresh demand for female labour?—Yes.

57. By the *Chairman*.] Do you not think it desirable to make it imperative, that the captain and surgeon of female immigrant ships should be married men, and that they should take their wives with them?—I think it would be a desirable arrangement if it could be carried out.

58. By Dr. *Lang*.] I suppose you have a list of surgeons of superior character that you could refer to?—It is a part of my duty to report to the government, for the information of the Land and Emigration Commissioners, the manner in which every surgeon has performed his duties, according to the opinion of the authorities here.

59. By the *Chairman*.] Have you formed any opinion as to the relative value of men coming from different parts of England?—I do not think that there is any material difference, further than that the men selected for the purposes of country labour here, should be taken from the country parishes, and not from the towns.

Appendix to the Evidence given by *F. L. S. Merewether*, Esq.

No. 1.—Return of the Immigration on Bounty, between the 1st January 1844 and the 31st August 1845.

Contractors.	Ships: Name.	Tonnage.	Date of Arrival.	Immigrants: Deaths on the Voyage: 14 years and upwards.	Between 7 and 14 years.	Under 7 years.	Total.	Per Centage.	Births on the Voyage: Male.	Female.	Total.	Number Landed on whom Bounties have been Claimed: Above 14: Male.	Female.	Under 14: Male.	Female.	Total.	Number on whom Bounties have been Withheld: Above 14: Male.	Female.	Under 14: Male.	Female.	Total.	Number on whom Bounties have been Allowed: Above 14: Male.	Female.	Under 14: Male.	Female.	Total.	Expenditure: Amount of Bounties Withheld.	Amount on Bounties Allowed.	Amount of Gratuities allowed to Surgeons, &c.	Total Amount Paid.
																											£. s. d.	£. s. d.	£. s. d.	£. s. d.
Mr W. G. Anderson, of Glasgow.	Herald	911	10 Jan. 1844	–	–	3	3	–	1	4	5	103	100	55	55	313	–	–	–	–	–	103	100	55	55	313	- - -	4,417 17 6	225 – –	4,642 17 6
	Herald	911	9 Feb. 1845	2	1	1	4	–	2	1	3	56	84	20	36	196	–	1	–	–	1	56	83	20	36	195	17 17 –	2,882 15 6	146 10 –	3,029 5 6
	Total			2	1	4	7	1⅜	3	5	8	159	184	75	91	509	–	1	–	–	1	159	183	75	91	508	17 17 –	7,300 13 –	371 10 –	7,672 3 –
Messrs. W. Smith & Sons, of Liverpool.	Elizabeth	950	20 Jan. 1844	1	–	10	11	–	3	1	4	110	114	36	53	313	1	1	–	–	2	109	113	36	53	311	36 15 –	4,786 13 9	225 – –	5,011 13 9
	*Wallace	864	16 Feb. 1844	12	–	26	38	–	4	1	5	95	103	62	42	302	–	1	–	–	1	95	102	62	42	301	18 7 6	4,501 17 6	216 12 –	4,718 9 6
	United Kingdom	1,267	29 April 1844	3	1	24	28	–	3	5	8	116	117	68	67	368	5	7	8	4	24	111	110	60	63	344	321 11 3	5,053 2 6	262 12 –	5,315 14 6
	Briton	776	26 June 1844	1	–	6	7	–	2	1	3	81	86	46	56	269	–	2	–	–	2	81	84	46	56	267	36 15 –	3,849 11 3	193 16 –	4,043 7 3
	Elizabeth	950	31 Mar. 1845	–	–	2	2	–	–	2	2	117	94	49	41	301	17	18	4	4	43	100	76	45	37	258	716 12 6	3,886 6 3	212 14 –	4,099 – 3
	Total			17	1	68	86	5¼	12	10	22	519	514	261	259	1,553	23	29	12	8	72	496	485	249	251	1,481	1,130 1 3	22,077 11 3	1,110 14 –	23,188 5 3
Messrs. Carter & Bonus, of London.	Neptune	643	11 Feb. 1844	4	–	6	10	–	2	3	5	101	96	50	48	295	–	–	–	–	–	101	96	50	48	295	- - -	4,506 14 –	213 14 –	4,720 8 –
	*Royal Consort	428	18 Feb. 1844	2	–	–	2	–	–	3	3	79	70	39	33	221	–	1	–	–	1	79	69	39	33	220	18 14 –	3,356 13 –	151 18 6	3,508 11 6
	William Metcalfe	547	13 Mar. 1844	1	–	2	3	–	2	1	3	81	67	55	39	242	–	–	–	–	–	81	67	55	39	242	- - -	3,562 7 –	173 2 –	3,735 9 –
	*Sea Queen	414	15 April 1844	1	–	4	5	–	5	2	7	77	63	44	35	219	–	1	–	–	1	77	62	44	35	218	18 14 –	3,253 16 –	160 10 –	3,414 6 –
	Elizabeth	437	29 April 1844	4	–	4	8	–	1	5	6	73	56	35	46	210	1	3	6	–	10	72	53	29	46	200	130 18 –	2,935 18 –	152 10 –	3,088 8 –
	Royal Saxon	700	26 June 1844	–	–	5	5	–	1	2	3	77	100	41	32	250	–	1	–	–	1	77	99	41	32	249	18 14 –	3,880 5 –	182 14 –	4,062 19 –
	*Dale Park	402	21 July 1844	–	–	8	8	–	–	–	–	68	71	39	38	216	1	2	–	–	3	67	69	39	38	213	56 2 –	3,225 15 –	158 10 –	3,384 5 –
	St. Vincent	628	31 July 1844	–	–	6	6	–	2	1	3	77	89	49	34	249	4	7	1	1	13	73	82	48	33	236	224 8 –	3,543 13 –	180 16 –	3,724 9 –
	*Lord William Bentinck.	443	22 Aug. 1844	–	1	6	7		–	1	1	76	63	39	38	216	1	1	4	2	8	75	62	35	36	208	84 3 –	3,094 17 –	155 18 –	3,250 15 –
	Templar	565	27 Aug. 1844	1	–	2	3	–	1	1	2	72	74	34	37	217	–	1	–	–	1	72	73	34	37	216	18 14 –	3,281 17 –	161 6 –	3,443 3 –
	*Abberton	450	22 Sept. 1844	2	–	4	6	–	1	3	4	76	68	52	43	239	–	1	1	–	2	76	67	51	43	237	28 1 –	3,478 4 –	172 14 –	3,650 18 –
	Total			15	1	47	63	2⅜	15	22	37	857	817	477	423	2,574	7	18	12	3	40	850	799	465	420	2,534	598 8 –	38,119 19 –	1,863 12 6	39,983 11 6
	Grand Total			34	3	119	156	–	30	37	67	1,535	1,515	813	773	4,636	30	48	24	11	113	1,505	1,467	789	762	4,523	1,746 6 3	67,498 3 3	3,345 16 6	70,843 19 9

Immigration Office, Sydney,
1 September 1845.

*These ships discharged their Immigrants at Port Phillip.

(signed) *Francis L. S. Merewether*,
Agent for Immigration.

No. 2.

RETURN showing the Proportions in which the Bounty Immigrants arrived between the 1st January 1844 and the 31st August 1845, have been taken from the several Counties* of the United Kingdom.

* The Counties given are the native Counties.

ENGLAND AND WALES.										SCOTLAND.				IRELAND.							
Northern Counties.		Southern Counties.		Midland Counties.		Eastern Counties.		Wales.		Northern Counties.		Southern Counties.		Ulster.		Leinster.		Connaught.		Munster.	
Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.	Counties.	Number of Souls.
Northumberland	7	Kent	24	Cheshire	31	Lincolnshire	156	Caernarvonshire	–	Caithness	5	Edinburgh	34	Donegal	21	Longford	4	Leitrim	36	Clare	99
Cumberland	3	Sussex	68	Derbyshire	48	Norfolk	46	Denbighshire	11	Sutherland	1	Haddington	6	Londonderry	56	West Meath	11	Sligo	5	Kerry	10
Westmoreland	–	Surrey	31	Nottinghamshire	67	Huntingdonshire	1	Flintshire	1	Rosshire	–	Berwickshire	2	Antrim	141	East Meath	26	Mayo	43	Cork	293
Durham	14	Hampshire	47	Staffordshire	22	Cambridgeshire	104	Merionethshire	–	Cromarty	–	Roxburghshire	5	Fermanagh	108	Louth	35	Galway	71	Waterford	3
Yorkshire	98	Berkshire	22	Warwickshire	14	Suffolk	105	Montgomeryshire	–	Nairn	1	Selkirkshire	–	Tyrone	136	King's County	46	Roscommon	–	Tipperary	95
Lancashire	114	Dorsetshire	24	Worcestershire	16	Bedfordshire	81	Cardiganshire	–	Invernesshire	15	Peebles	–	Downshire	134	Kildare	11			Limerick	111
Isle of Man	3	Wiltshire	58	Leicestershire	52	Hertfordshire	10	Radnorshire	–	Moray or Elgin	2	Lanarkshire	26	Cavan	285	Dublin	45				
		Somersetshire	88	Rutlandshire	7	Essex	19	Pembrokeshire	4	Banff	–	Dumfriesshire	11	Monaghan	46	Queen's County	16				
		Devonshire	61	Northamptonshire	37	Middlesex	44	Caermarthenshire	2	Aberdeen	2	Galloway	–	Armagh	184	Carlow	34				
		Cornwall	94	Buckinghamshire	314			Brecknockshire	–	Kincardine	–	Ayrshire	–			Wicklow	8				
		Guernsey I.	–	Oxfordshire	265			Glamorganshire	4	Forfarshire	10	Dumbarton	3			Kilkenny	43				
		Jersey I.	8	Gloucestershire	9			Anglesea	–	Fifeshire	12	Argyleshire	19			Wexford	7				
				Monmouthshire	–					Kinross	5	Renfrewshire	5								
				Herefordshire	13					Clackmannan	6	Stirling	7								
				Shropshire	14					Perthshire	2	Linlithgow	–								
										Orkney & Shetland Is	1	Bute	–								
										Isle of Skye	2										
Total	239		525		909		596		22		64		118		1,111		286		155		611

Immigration Office, Sydney, 1 September 1845.

(signed) *Francis L. S. Merewether,* Agent for Immigration.

No. 3.

RETURN of Immigrants arrived between the 1st January 1844 and the 31st August 1845, showing the Number from *England*, *Scotland* and *Ireland* respectively, with Particulars of Age, Sex, Religion, Education and Calling.

NATIVE COUNTRY.	NUMBERS, AGE, SEX, &c.											RELIGION.		EDUCATION.			TRADES AND CALLINGS.*																		
	14 Years and upwards.				Between 7 and 14 Years.		Between 1 and 7 Years.		Under 1 Year.		Total.			Number of Adults who can			Males.									Females (Unmarried).									
	Married.		Single.																															
	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.	Male.	Female.		Protestants.	Roman Catholics.	Read and Write.	Read only.	Neither Read nor Write.	Agricultural Labourers.	Shepherds.	Carpenters.	Smiths.	Wheelwrights.	Bricklayers.	Masons.	Miscellaneous.	Cooks.	Dairymaids.	Farm Servants.	General House Servants.	Housemaids.	Laundresses.	Nursemaids.	Miscellaneous.			
England	438	430	315	162	205	182	242	225	48	44	2,291	2,265	26	673	474	198	572	39	65	40	8	8	18	3	4	4	16	69	47	2	19	1			
Scotland	30	33	38	23	10	11	12	15	7	3	182	181	1	109	13	2	25	8	17	10	–	1	7	–	–	–	–	20	3					
Ireland	317	314	397	553	120	121	122	115	47	57	2,163	985	1,178	823	425	333	565	14	60	19	7	9	28	12	9	36	110	214	126	3	50	5			
Totals	785	777	750	738	335	314	376	355	102	104	4,636	3,431	1,205	1,605	912	533	1,162	61	142	69	15	18	53	15	13	40	126	303	176	5	69	6			

* Persons of the callings specified in this Return are qualified for free passage, under the Bounty Regulations; the individuals classed under the head "Miscellaneous" were of other callings, which disqualified them as Bounty Emigrants.

Immigration Office, Sydney, 1 September 1845.

(signed) *Francis L. S. Merewether,* Agent for Immigration.

Appendix—*continued.*

No. 4.

STATEMENT compiled from Returns from the several Police Districts of the Colony, showing the Rates of Yearly Money-wages given in each District, during the Two first Quarters of the present Year, Food and Lodging being provided by the Employers.

	POLICE DISTRICT.	Miles from Sydney.	Carpenters.		Smiths.		Wheelwrights.		Bricklayers.		Masons.		Farm Labourers.		Shepherds.	
			1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.	1 January to 31 March.	1 April to 30 June.
	WITHIN THE BOUNDARIES OF LOCATION:		£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.	£. s.
SYDNEY DISTRICT.	Parramatta	15	- -	40 -	- -	21 -	- -	23 -	- -	54 -	- -	54 -	12 -	12 -	10 -	10 -
	Liverpool	21	45 -	30 -	45 -	30 -	45 -	26 -	40 -	30 -	45 -	13 -	15 -	12 -	15 -	—
	Brisbane Water	30	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	14 -	16 -	—	
	Penrith	32	- -	30 -	- -	30 -	- -	32 -	- -	28 -	- -	25 -	- -	14 -	- -	14 -
	Campbell Town	33	- -	30 -	- -	30 -	- -	30 -	- -	30 -	- -	30 -	- -	16 10	—	
	Windsor	34	30 -	30 -	30 -	30 -	30 -	30 -	30	30 -	30 -	30 -	13 10	13 10	13 10	13 10
	Picton	50	35 -	35 -	35 -	35 -	35 -	35 -	35 -	35 -	30 -	35 -	15 -	15 -	18 -	15 -
	Illawarra	70	18 -	23 -	20 -	23 -	25 -	25 -	20 -	20 -	20 -	20 -	12 -	12 -	12 -	12 -
	Hartley	72	30 -	30 -	25 -	25 -	35 -	35 -	25 -	25 -	25 -	25 -	15 -	14 -	15 -	15 -
	Berrima	80	20 -	20 -	20 -	20 -	20 -	20 -	20 -	20 -	20 -	20 -	16 -	16 -	15 -	15 -
	Wollombi	93	38 -	38 -	- -	- -	30 -	30 -	- -	- -	- -	- -	15 -	17 -	16 10	16 10
	Bathurst	114	—													
	Bungonia	116	25 -	25 -	- -	20 -	20 -	20 -	- -	- -	30 -	30 -	16 -	- -	15 -	16 -
	Patrick's Plains	124	25 -	25 -	30 -	30 -	28 -	28 -	30 -	30 -	30 -	25 -	14 -	14 -	12 -	12 -
	Goulburn	125	30 -	30 -	25 -	25 -	25 -	25 -	25 -	25 -	23 -	23 -	16 -	16 -	14 -	15 -
	Maitland	128	25 -	25 -	25 -	25 -	24 -	25 -	25 -	25 -	25 -	25 -	14 -	14 -	14 -	14 -
	Paterson	131	26 -	- -	- -	- -	- -	- -	- -	- -	- -	- -	14 10	- -	14 10	—
	Newcastle	135	40 -	40 -	35 -	35 -	- -	- -	- -	- -	- -	- -	14 -	12 -	12 -	12 -
	Raymond Terrace	140	—													
	Carcoar	145	- -	17 10	- -	20 -	- -	- -	- -	20 -	- -	- -	- -	14 -	- -	15 -
	Dungog	150	- -	40 -	- -	50 -	- -	50 -	- -	50 -	- -	- -	- -	18 -	- -	16 -
	Muswell Brook	156	- -	25 -	- -	25 -	- -	25 -	- -	25 -	- -	25 -	- -	16 -	- -	16 -
	Mudgee	158	46 -	- -	62 -	- -	46 -	- -	46 -	- -	46 -	- -	19 10	- -	19 10	—
	Braidwood	163	—													
	Merton	170	- -	20 -	- -	20 -	- -	20 -	- -	- -	18 -	- -	14 -	16 10	- -	15 10
	Yass	178	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	12 -	- -	13 -	—
	Broulee	180	27 10	25 -	30 -	30 -	20 -	25 -	20 -	20 -	30 -	35 -	13 10	17 10	12 10	15 -
	Queanbeyan	180	19 -	- -	26 10	- -	- -	- -	22 10	- -	22 10	- -	13 10	- -	13 10	—
	Scone	182	25 -	25 -	25 -	25 -	- -	- -	- -	- -	- -	- -	16 -	16 -	18 10	15 -
	Cassilis	200	60 -	35 -	70 -	40 -	50 -	36 -	- -	- -	75 -	38 -	16 -	18 -	14 -	16 -
	Wellington	238	26 10	27 10	26 10	27 10	26 10	27 10	- -	- -	- -	- -	17 -	17 -	15 10	17 -
	Port Macquarie	278	20 -	20 -	20 -	20 -	20 -	20 -	- -	- -	- -	- -	15 -	15 -	16 -	16 -
	Moreton Bay	450	35 -	40 -	35 -	40 -	35 -	- -	35 -	40 -	- -	- -	19 -	20 -	20 -	20 -
	BEYOND THE BOUNDARIES OF LOCATION:															
	Bligh	200	25 -	25 -	25 -	25 -	- -	25 -	- -	30 -	- -	35 -	18 -	20 -	18 -	20 -
	Lachlan	220	30 -	25 -	30 -	25 -	35 -	25 -	52 -	25 -	39 -	25 -	18 -	15 -	15 -	15 -
	Liverpool Plains	250	- -	35 -	- -	30 -	- -	30 -	- -	25 -	- -	25 -	- -	18 -	- -	18 -
	Maneroo	250	30 -	30 -	50 -	50 -	30 -	30 -	30 -	30 -	30 -	30 -	18 -	18 -	18 -	18 -
	Wellington	250	25 -	20 -	25 -	20 -	25 -	- -	- -	- -	- -	- -	18 -	- -	15 -	16 -
	Murrumbidgee	258	- -	52 -	- -	75 -	- -	52 -	- -	52 -	- -	- -	- -	18 -	- -	19 -
	M'Leay River	310	25 -	25 -	20 -	20 -	- -	- -	- -	- -	- -	- -	15 -	16 10	13 10	15 -
	Clarence River	340	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	13 10	17 10	13 10	15 -
	New England	375	- -	28 -	- -	35 -	- -	- -	- -	- -	- -	25 -	- -	20 -	- -	18 -
	Moreton Bay	450	30 -	30 -	30 -	30 -	30 -	30 -	30 -	30 -	30 -	30 -	20 -	20 -	20 -	20 -
	Darling Downs	550	27 10	25 -	- -	25 -	- -	25 -	- -	25 -	- -	25 -	22 10	20 -	22 10	20 -
PORT PHILLIP DISTRICT.	Melbourne	—	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	20 -	24 -	22 -	22 -
	Bourke	—														
	Grant	—	- -	30 -	- -	30 -	- -	30 -	- -	30 -	- -	30 -	- -	18 -	- -	18 -
	Geelong	—	25 -	30 -	25 -	30 -	25 -	30 -	25 -	30 -	25 -	30 -	17 -	18 -	17 -	18 -
	Murray	—	- -	40 -	- -	40 -	- -	35 -	- -	- -	- -	- -	- -	22 -	- -	20 -
	Portland	—	30 -	27 10	30 -	27 10	27 10	22 10	25 -	27 10	30 -	25 -	26 -	22 10	27 10	25 -
	Western Port	—	- -	40 -	- -	30 -	- -	30 -	- -	- -	- -	30 -	- -	22 -	- -	22 -
	Gipps Land	—	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	- -	20 -	- -	20 -
	Portland Bay	—	- -	35 -	- -	35 -	- -	35 -	- -	- -	- -	35 -	- -	20 -	- -	20 -
	Average in Sydney District		29 19	29 3	31 17	29 12	30 4	28 14	30 6	30 3	31 11	28 3	15 11	16 2	15 6	15 15
	Average in Port Phillip District		27 10	33 15	27 10	32 1	26 5	30 8	25 -	30 12	27 10	30 -	21 -	20 16	22 3	20 12
	Average in entire Colony		29 15	29 16	31 1	30 2	29 17	29 -	29 15	30 4	31 3	28 10	16 -	17 -	15 18	16 13

Immigration Office, Sydney, 1 September 1845.

(signed) *Francis L. S. Merewether,*
Agent for Immigration.

No. 5.

PAPER compiled from Returns from the several Districts of the Colony, showing the Cost of erecting Labourers' Dwellings, the principal Agricultural Productions, &c., the Number of Persons (if any) out of Employment, and the Demand for Labour in each District, in the Two First Quarters of the present Year (1845).

DISTRICT.	Cost and ordinary Materials of Labourers' Dwellings.	Agricultural Produce of the District, the Extent to which it supplies itself therewith, and what it contributes to the supply of other Districts.	LABOURERS OUT OF EMPLOYMENT.		DEMAND FOR LABOUR.
			1845: January to March.	1845: April to June.	
Parramatta - -	From 10*l.* to 30*l.*, according to situation; made of slab and brick.	It produces hay, wheat, green barley and maize, and contributes vegetables and fruit to the supply of other districts.	There are a good many still, although not so large a number as when the last return was made; they could, however, all be in service, provided they would accept engagements in the interior.	There are very few unemployed in the district, and only those who are idly inclined.	No description of labour in request.
Liverpool - -	£.30 to 35*l.*; two-roomed, slabbed, shingled and plastered.	It produces wheat, maize, potatoes, pumpkins, fruit and oaten hay, of which one-third at least is sent to Sydney.	A few agricultural labourers, and are likely soon to be employed.	None - - - -	A few agricultural labourers would find immediate employment.
Brisbane Water -	About 5*l.*; built of slabs, with a roof of bark.	It produces maize, potatoes, onions and oranges, and a small portion of its consumption of flour, and contributes potatoes to the supply of other districts.	There are no persons willing and able to work at present unemployed in this district.	There are no persons willing and able to work at present unemployed in this district.	A few good farm labourers would find employment. The demand for timber, the principal export of the district, having greatly decreased, the number of labourers necessary for its supply has decreased in some proportion, including all those dependent on the employment of those labourers for their own. Industrious and steady labourers, after a time, are in the habit of settling on small farms, for which the district is well adapted.
Penrith - -	From 8*l.* to 15*l.*, and they are generally slabbed and roofed with bark.	It produces wheat, barley, oats, maize, potatoes, tobacco, hay, and grapes for making wine to a considerable extent. It is entirely self-dependent, and contributes large supplies to other districts.	None - - - -	None - - - -	We are not aware of there being any very urgent demand for male labourers, but labourers arriving in the district, such as ticket of leave holders, appear to have no difficulty in obtaining employment at the same rate of wages as formerly; for female domestic servants, there appears to be a rapidly growing demand.
Campbelltown -	From 3*l.* to 5*l.*; they are generally made of slabs and roofed with bark.	It produces wheat, hay, maize and barley; it supplies itself with wheat, hay, pigs and poultry, and sends considerable quantities of wheat, hay, butter, eggs, poultry and pigs to Sydney; beef and mutton are supplied from the interior.	But four, useless and idle characters, are out of employment.	None - - - -	Agricultural labourers and house servants, &c., of a competent description are in request; wages are decidedly on the increase, and really good servants of either sex, are anxiously sought after, even with the demand for higher wages.
Windsor - -	About 20*l.* generally; constructed of split timber.	It produces grain, hay and potatoes, with which it supplies itself; grain, hay, pork, butter, eggs, poultry and potatoes are sent to Parramatta or Sydney; meat is generally obtained from the interior.	There are not any persons out of employment, except those who are under the impression that wages will be higher, and who have already obtained means of support without work for a time.	None - - - -	Agricultural labourers, shepherds and stockmen are in request; it is not requisite to send families, unless the children are sufficiently grown up to perform labour, or to act as shepherds; generally single men would be preferred, those who have always been accustomed to labour.
Picton - - -	Houses for farm servants are generally built of wooden slabs, and covered with bark, and always at the expense of the employer.	It produces wheat, maize, barley, oats, rye, hay, potatoes, and grapes. A considerable quantity of farm produce is annually sent to market, besides what is sufficient for the district.	None - - - -	None - - - -	Mechanics, shepherds, farm-servants, milkmen, stockmen, dairymen, house-servants, laundresses, cooks, &c., are in request.
Illawarra - -	From 6*l.* to 8*l.*; slabs and bark -	It produces wheat, barley, oats, potatoes, hay, &c., with which it supplies itself; wheat, oats, barley, potatoes and butter are sent to Sydney.	None - - - -	None - - - -	There is a sufficient supply of labourers in the district for the demand.

(*continued*)

No. 5.—Paper compiled from Returns from the several Districts of the Colony, showing the Cost of erecting Labourers' Dwellings, the principal Agricultural Productions, &c.—*continued.*

DISTRICT.	Cost and ordinary Materials of Labourers' Dwellings.	Agricultural Produce of the District, the Extent to which it supplies itself therewith, and what it contributes to the supply of other Districts.	LABOURERS OUT OF EMPLOYMENT. 1845: January to March.	LABOURERS OUT OF EMPLOYMENT. 1345: April to June.	DEMAND FOR LABOUR.
Hartley	£. 10, slabs	It produces wheat, oats and potatoes; grows sufficient for its own consumption, and is at present sending potatoes and wheat to the district; there will be a large surplus this year.	None	None	Twenty shepherds and farm servants would find employment at a fair rate of wages.
Berrima	£. 10, slabs and bark	It produces, wheat, oats, potatoes, hay and all descriptions of English grain, and is not dependent on other districts for supplies of food. Large quantities of wheat, oats, potatoes, &c., are sent to Sydney.	None	None	A few good female domestic servants would find employment.
Wollombi	£. 3 to 5 *l.* hut bark covered; 5 *l.* to 10 *l.* hut shingled.	It produces wheat, maize and tobacco. A very large quantity of wheat, maize and pork is sent to Maitland and Sydney markets.	There may be a few persons out of employment who do not choose to take the wages that settlers can afford to give; but there is not a labourer or tradesman in want of employment from other cause in this district.	None who choose to work	It is quite obvious that unless means are taken to supply an additional quantity of labourers and shepherds, that wages will rapidly advance, and hence the progress of productive industry will, to a considerable extent, be stopped. There is an upward tendency in the prices of colonial productions, but the profits, hitherto, would not warrant much increase of wages. Although wheat has been at the low price of 2 *s.* to 3 *s.*, and maize at 6 *d.* to 1 *s.* per bushel, and that these prices are below the cost of production, yet there is a great anxiety to get land in this district, either at a rent or on clearing leases; and thus the quantity of available labour is constantly lessened; how rent can be paid, at the present price of produce, I am unable to say.
Bathurst		It supplies itself abundantly, and leaves a large surplus; it produces wheat, potatoes, butter, cheese, vegetables, maize, barley, rye, wool and tallow.	There are some unemployed, but they are persons who refuse to accept the rate of wages now being given, and are waiting for shearing time and harvest, when there will be no want of employment.	No return	Shepherds, hut-keepers, and general farm servants are in request; married people with large juvenile families are not generally suited to this district, and will find it difficult to get employment; but families, however large (provided the children are of an age to be made useful on a farm), would meet with ready engagements.
Bungonia	£. 5; the materials consisting of split slabs and bark roof.	It produces wheat, barley, maize, oats, potatoes, hay, dairy produce, cheese and butter; it furnishes an abundance of grain amply sufficient for its own use, and contributes largely in supplying other markets.	There is a demand, at most periods of the year, for well-behaved men: no one in this county inclined to work, need want.	None inclined to work	Shepherds and agricultural labourers are in request.
Patrick's Plains	£. 10 to 25 *l.*; of wooden slabs and bark, of weather board and wooden shingles.	It is self-dependent in wheat, meat and vegetables, and contributes to other districts wheat, beef and mutton. It produces wheat, maize, barley and hay.	None, unless wilfully	None	Shepherds, farm servants, and female domestic servants are in request.
Goulburn	About 5 *l.*; constructed of slabs and bark.	Is wholly self-dependent, and contributes to the supply of other districts in the shape of wheat, barley, potatoes and animal food. It produces wheat, barley oats and potatoes.	A few idlers; they might find employment, were they disposed to work.	None	Shepherds and female domestic servants are in request; the latter are much wanted.
Maitland	£. 10; constructed of slabs and shingles.	It supplies itself abundantly with wheat, maize, hay, potatoes, and other vegetables; also, with beef, mutton, pork, poultry of all sorts, and contributes largely to the supply of the Sydney market; it produces wheat, maize, hay, potatoes, barley, oats and tobacco.	A few masons, bricklayers and carpenters.	None	Farm labourers, shepherds and sheep watchmen, and female domestic servants of all sorts are in request; wages are at present rather high for shepherds, owing to a demand for that class of persons.
Paterson	£. 10; constructed of slabs and shingles.	It produces wheat, maize, barley, tobacco, potatoes, fruit, vegetables and grapes; it is entirely self dependent, and contributes agricultural produce of all kinds, and pork to the supply of other districts.	None	No return	Agricultural labourers are in request, but at present there is not much demand for labour, in consequence of the very low price of all kinds of agricultural produce.

Newcastle	From 5*l.* to 7*l.*; constructed of split slabs, and covered with shingles or sheets of bark, sometimes a bricked fire-place or chimney.	It produces wheat, barley, maize, potatoes, fruit and hay; the supply of the district in butcher's meat and flour is dependent upon distant quarters; maize, potatoes and vegetables are produced in sufficient quantities to satisfy the demand; it supplies other districts with fruit to a large extent.	A great many mechanics, servants and labourers, in consequence of demanding exorbitant wages in these times of monetary depression; no prospect of getting employment, except in the depasturing districts.	Same as last quarter	Newcastle may be regarded as rapidly rising into notoriety as a manufacturing town, conduced, in a great measure, from the cheapness of fuel and abundant supply of fresh water. The most likely description of labour that will be required will be for the woollen and salt manufactories, the collieries and the iron foundries, and such other manufactories as are likely to be established, viz. earthen and glass ware, also a manufactory for rope and the inferior kinds of sacking, and wool-bagging is about, it is said, to be established from New Zealand flax.
Raymond Terrace	£. 3; split slabs, with bark roof	It is self-dependent, and supplies Sydney and Newcastle with butter, cheese, bacon and corn of various sorts; it produces maize, wheat, barley, oats, potatoes, &c.	None	No return	The present supply of labour is sufficient.
Carcoar	From 5*l.* to 10*l.*; constructed of slabs, with bark roof.	It supplies itself; it produces wheat	No return	None	The demand for shepherds and hut-keepers is daily increasing.
Dungog	£.4 to 5*l.*; constructed of slabs, and bark roof, and generally erected by the labourers themselves.	It produces wheat, tobacco, maize, potatoes, hay and vegetables of every description, and it supplies Sydney market with wheat, maize, tobacco, butter, cheese, hides, beef and tallow, bacon, eggs and pigs.	None who are willing to work	None who are able and willing to work.	The district is not over-supplied with labour; a few good agriculturists would meet with employment; the rate of wages high and labour scarce, the average about 18*l.* per annum, with rations of the first quality and quantity, for farm-labourers; a few (and but a very few) well-conducted general female servants would find employment.
Muswellbrook	From 4*l.* to 12*l.*; built with wood or slabs, and bark roof.	The wheat crop is barely sufficient for the supply of the district, which, being a pastoral one, has a surplus of beef and mutton; it produces wheat, corn, tobacco, vegetables, grapes, and a very little maize.	There seem to be a few labourers short of employment, but the sheep washing and shearing will find them work.	None	House servants are much required.
Mudgee	A slab building, would cost about 10*l.*	It produces wheat, maize, potatoes, hay, barley, &c., and in the present abundant season, there is an ample supply of food.	None	No return	Shepherds and farm servants are in request.
Braidwood	From 3*l.* to 5*l.*; constructed of slabs and bark. The dwellings are provided by the employer.	It cannot be ascertained to what extent this district contributes to the supply of others, but it is considerable; it produces all descriptions of grain.	There are none out of employment who need be so, if inclined to work.	No return	Shepherds and general farm servants get employment readily.
Merton	£.10; of wood	Supplies its own consumption of wheat, and has a surplus of meat; it produces wheat and wine.	None	None	Shepherds, farm labourers and domestic servants are in request.
Yass	In the township of Yass, about 5*l.* or 6*l.*; in the squatting district for from 3*l.* to 4*l.*; generally constructed of slabs and bark.	Can supply itself, and furnish supplies to other districts; it produces wool, tallow, wheat, rye, barley, oats, beef, mutton, pork, butter, cheese, and many other of the minor productions of pastoral districts.	A few, who prefer an idle life to one of employment, are not in service; they wander from station to station, living in an idle way on the employed part of the labouring classes.	No return	Agriculturists, as labourers, shepherds, vine-dressers (about 20 of the latter class) hut-keepers, grooms, cooks, house servants and washerwomen are in request.
Broulee	About 5*l.*; slabs and bark	It produces wheat, maize, barley, oats, potatoes, &c.; is dependent on itself entirely for food, and sends potatoes and grain to the Sydney market.	None necessarily out of employment.	None	General house and farm servants are in request. The lands are principally cultivated by settlers, who lease from 10 to 30 acres each from the large proprietors, and the labour is frequently performed by men for a certain share of the proceeds of the whole.
Queanbeyan	About 10*l.*; slab and bark	Entirely dependent on itself for wheat and flour, which it supplies in considerable quantities to the district of Maneroo; it produces wheat, maize, oats, barley, potatoes and hay.	None	No return	Respectable married couples without incumbrance, female house servants, cooks, laundresses, nurses, &c., and one or two good wheelwrights, are required.

(*continued*)

No. 5.—Paper compiled from Returns from the several Districts of the Colony, showing the Cost of erecting Labourers' Dwellings, the principal Agricultural Productions, &c.—*continued*.

DISTRICT.	Cost and ordinary Materials of Labourers' Dwellings.	Agricultural Produce of the District, the Extent to which it supplies itself therewith, and what it contributes to the supply of other Districts.	LABOURERS OUT OF EMPLOYMENT.		DEMAND FOR LABOUR.
			1845: January to March.	1845: April to June.	
Scone - -	From 6*l.* to 10*l.*; they are slab huts.	There is a considerable quantity of flour imported into this district, but from its extent of available land it is capable of self-supply; it produces wheat, maize, barley, vines and tobacco.	Very few, and they are likely soon to be employed.	Same as last quarter - -	There is a constant demand for farm labourers and shepherds in this district, but a very limited one for mechanics of all descriptions, the supply being fully equal to the demand. We would urge upon the attention of the Home Government the necessity of devoting the funds at their disposal for the purposes of emigration to the export of the former class.
Cassilis - -	Dwellings are constructed of slabs, covered with bark, and always erected by the master for his servants.	For flour it is nearly dependent; butcher's meat is abundant; it produces wheat, and very little of it.	None - - - -	None - - - -	Shepherds, farm labourers, grooms and sheep-shearers are in request.
Wellington - -	£. 4 to 5*l.*; of slab, and roof barked.	Dependent on the neighbouring districts for the supply of grain; meat abundant in this district.	None who are able and willing to work.	Same as last quarter - -	Shepherds, hut-keepers and bullock drivers are in request; wages are on the rise, and useful men scarce.
Port Macquarie -	From 5*l.* to 7*l.*; slabs and bark, thatch or shingle roofs.	The district supplies itself with meat and maize, but not with all the flour consumed; this, however, is owing to the large number of convicts here; it produces wheat, maize and tobacco.	None - - - -	None - - - -	About 12 female servants would meet with employment here; immigrants with large families are not often in request here; the description of labourers who most readily find employment are shepherds and farm labourers.
Moreton Bay -	From 5*l.* to 20*l.*; slabs and bark, or pine weather-boards and slabs.	The district is self-dependent for meat only, and supplies nothing to other districts; it produces maize, potatoes, tobacco and wheat, and, during favourable seasons, most vegetables grow well, and the following fruits, viz. pine-apples, grapes, melons, oranges, citrons and lemons.	At present there are very few out of employment.	None at present - -	Shepherds and female servants are in request.
Bligh - - -	£. 10; the materials are iron bark timber.	It produces wheat, and supplies itself with meat, and, to a certain extent, with flour; it can also supply other districts with meat.	None - - - -	None - - - -	Shepherds, hut-keepers, stockmen, farm labourers and watchmen are still very much in demand.
Lachlan - -	About 10*l.*; generally constructed of slabs and bark.	The district more than supplies itself with food, and contributes stock and agricultural produce to other districts; it produces wheat, barley and maize, with a fair proportion of hay.	None - - - -	None - - - -	Shepherds, hut-keepers and farm labourers are in request; labour is becoming very scarce in the district, and wages are, consequently, gradually rising, and I have no doubt will continue to do so, as a great increase of stock is anticipated this year, which will cause a great demand for labour.
Liverpool Plains -	From 3*l.* to 7*l.* 10*s.*; the huts are constructed of common split slabs and bark.	It produces wheat, Indian corn, millet, Cape barley, tobacco and vegetables; the seasons in this district cannot be depended upon, taking the average crop one year with another; it hardly supplies itself, and the settler is obliged to cart grain from the neighbourhood of the sea-coast at a very great expense; it contributes nothing to the supply of other districts.	Some few persons are out of employment, but they are idle in their inclinations, and prefer living upon the hospitality of the different stations; they travel about the district under the ostensible intention and object of looking for employment, but in too many instances actually wishing for none.	No persons need be out of employment who are willing to work; many idle characters are to be found in this as well as every other district in the colony.	Shepherds, fencers and rough carpenters will find ready employment; it is generally supposed that labourers' wages are at present on the rise; steady men will always find service in this district, which is every day increasing in size and population.

Manero - -	About 10 *l.*, and usually constructed of slabs, covered with bark or thatch.	It produces wheat, potatoes, hay, barley and oats, and, near the coast, some maize and a little tobacco; about as much wheat is grown as is equal to the consumption; a large supply of fat stock, of very superior quality, consisting of both sheep and cattle, is annually sent to the Sydney market, besides breeding stock exported to New Zealand, and fat stock to Van Diemen's Land.	None - - - - -	None - - - - -	At present the demand is about equal to the supply.
Wellington - -	£. 5; slab walls; roof of bark -	The district does not at present produce grain enough for its supply, which is procured from the adjoining district, within the boundaries; it contributes fat stock to the supply of other districts.	None - - - - -	Very few men in the district unemployed, and those holding out for an advance at shearing.	Shepherds much wanted, and a few men accustomed to dairy work. Wages expected to rise, if no men arrive in the district.
Murrumbidgee -	From 6 *l.* to 10 *l.*; generally made of slabs and bark.	It produces wheat, maize, oats, barley and potatoes; the district is perfectly self dependent for food, even with average harvest, and, in favourable seasons, is enabled to furnish wheat to the neighbouring districts.	None - - - - -	None - - - - -	Shepherds, watchmen, and men having a perfect knowledge of agriculture are in request: the introduction of a few married couples, to act as household servants, as also a few virtuous girls as laundresses, would add much to the domestic comfort of the bush, such being rarely met with so far in the interior; the season in which labour is most scarce is during shearing and harvest, at which time all those whose annual or half-yearly agreements happen to expire, will not renew them, on account of the additional wages to be obtained for job and day work, and even at a considerable advance it is, at this particular period, frequently very difficult to procure shepherds and watchmen.
McLeay River -	From 5 *l.* to 7 *l.*; composed of slabs and roofed with bark.	It produces maize, wheat, and a few potatoes; being almost exclusively a grazing district, nothing is raised except what is absolutely necessary for the maintenance of the servants employed at the different stations.	None - - - - -	None - - - - -	Stockmen, farm labourers, bullock drivers, and a few shepherds are in request; a few steady men would find good work as sawyers; there are at present about sixty sawyers employed in the district who clear, each, from 1 *l.* to 30 *s.* per week, after paying for rations. In consequence of the contiguity of this district to Port Macquarie, and the consequent facility employers have of getting ticket-of-leave holders as labourers, one-half of the whole number of labourers consists of the above-named class, and from the general opinion that they are under more control than free men, are almost always preferred. The total number of male adults in the district is 280, of which 156 are free, and 124 ticket-of-leave holders and assigned servants.
Clarence River -	From 10 *l.* to 15 *l.*; the dwellings are all constructed of wood.	It produces wheat, maize, potatoes and vegetables for consumption in the district.	None - - - - -	None - - - - -	Shepherds, stockmen and hut-keepers are in request.
New England -	£. 7; constructed of slabs and roofed with bark.	The district is self dependent for meat and grain; it produces wheat, oats, barley, maize and potatoes.	None - - - - -	None - - - - -	No apparent want of labour at present.
Moreton Bay -	From 5 *l.* to 10 *l.*; slabs and bark	It produces wheat, maize, potatoes and tobacco, but not sufficient for the wants of the district; there is an abundance of wheat.	Few worth having - -	None worth their hire -	Shepherds, shearers and hut-keepers are always in request, and as shearing comes on, will be likely to get advance of wages; domestic servants are also wanted. This being a newly formed district, single men or families, consisting in all of three or four souls, are principally sought after.
Darling Downs -	About 7 *l.*; generally constructed of slabs and bark.	This district supplies itself with meat and vegetables, and it contributes meat, butter and cheese to the supply of others; it produces wheat, maize, barley, oats, millet, potatoes and other vegetables.	None but those who are too idle to seek it.	Same as last quarter -	The demand for labour in this district will be principally confined to shepherds, it being exclusively appropriated to grazing, but I anticipate no scarcity at present; good house servants, however, whether single or married, are much wanted.

(*continued.*)

No. 5.—Paper compiled from Returns from the several Districts of the Colony, showing the Cost of erecting Labourers' Dwellings, the principal Agricultural Productions, &c.—*continued.*

DISTRICT.	Cost and Ordinary Materials of Labourers' Dwellings.	Agricultural Produce of the District, The Extent to which it supplies itself therewith, and what it contributes to the supply of other Districts.	LABOURERS OUT OF EMPLOYMENT. 1845: January to March.	LABOURERS OUT OF EMPLOYMENT. 1845: April to June.	DEMAND FOR LABOUR.
Melbourne	From 3*l.* to 10*l.*; constructed of slabs and bark.	It produces wheat, barley, potatoes, oat-hay and vegetables; there is an abundant supply of food of every description; the exports are cattle and sheep.	None	There are only a few lazy and dissolute men to be seen going idly about the streets, without any ostensible means of support; servants from the country are to be seen carousing and spending their wages in the public-houses, but no person able and willing to earn an honest livelihood need be out of employment, as there is plenty of it in the town and country, at remunerative wages.	The demand for farm servants, shepherds, stockmen, hut-keepers and house servants, is very great; female house servants are not to be obtained at present, and, in consequence, many families are obliged to do without them; it is pretty well ascertained that the higher the rate of wages, the worse servants become; it causes insolence, disobedience and carelessness, in general. In order to meet the wants of the colony, as well as to equalize the number of the sexes, in the event of immigration being again resumed, undoubtedly the number of single females to single men ought, for a time, at least, to be as two to one.
Bourke	A slab hut costs about 5*l.*	The district produces wheat, oats, potatoes and barley	None that are willing to work, except some who are married and have large families.	No Return	Single men, viz., shepherds, hut-keepers, bullock-drivers, farm servants and dairymen, are in request; 200 single men annually would find employment, at the rate of from 12*l.* to 15*l.* per annum, besides being found in sufficient rations.
Grant	From 8*l.* to 12*l.*; composed of wooden slabs or wattle and dab.	The district produces wheat, barley, oats, potatoes and vegetables, with which it supplies itself abundantly; cattle and sheep are exported to Van Diemen's Land.	Not any, but from idleness	None	Shepherds, farm labourers and house servants, male and female, are much in request; English people are generally preferred.
Geelong	From 8*l.* to 10*l.*; generally built of slabs.	The district produces wheat, barley, oats, potatoes and vegetables, with which it supplies itself; meat and potatoes are exported.	None	None	Single men, as shepherds and farm labourers, and female house servants, are much in request; English people are generally preferred.
Murray	Slab hut, value 10*l.*	The district produces wheat, oats, barley, maize and potatoes; the necessaries of life are now generally raised in the district.	None	Very few, and those more from inclination than necessity.	Farm servants, shepherds and stockmen, are in request.
Portland	£. 10 to 15*l.*: slabs and paling roof	The district produces all the necessary articles of food, and contributes largely in the supply of meat to other colonies.	None	None	Shepherds and general labourers are in request; the increasing number of agriculturists in the district must tend to create a considerable demand for labourers during the present year; and if the average rate of wages were reduced to 15*l.*, the number of men would be considerably increased on each establishment; the yearly increase in the quantity of sheep will, of itself, cause a proportionate annual increase in the demand for labour.
Western Port	£. 5 for a slab hut	The district produces wheat, oats, barley, potatoes, and a little maize; at present sufficient wheat is not grown for consumption; it contributes nothing to the supply of other districts.	None who are able and willing to work.	Same as last quarter	At the present time, 400 single men and 100 married couple could find employment in the Western Port district, as shepherds, hut-keepers and dairy people; and 300 men will probably be required within 12 months.
Gipps' Land	From 5*l.* to 10*l.*; built of stringy bark slabs; roofed with bark.	The district produces wheat, barley, oats and potatoes; imports about two-thirds of the flour consumed; next year, however, the greater part of the flour likely to be consumed in the country will be grown in the district; the average annual export to Van Diemen's Land is 1,814 cattle and 4,274 sheep.	None	None	Shepherds, hut-keepers and farm servants are very much required; the number of labourers of all kinds in this district is 224 men and 48 women; many of them are freed men, from Van Diemen's Land, and give much trouble to their employers; emigrants from England would be preferred to them, and from correspondence I have had with some of the settlers, I have no doubt but that 50 single men would readily find employment.
Portland Bay	Nothing more than the labour; of mud, stone and split timber.	The district produces wheat, oats and potatoes	None	None	All kinds of labour are in request; the only thing which I can recommend is, that a good selection should be made of persons sent out; many have come, useless.

Immigration Office, Sydney, 1st September 1845.

F. L. S. Merewether, Agent for Immigration.

Mr. *Joseph Frederick Johnson*, called in; and Examined.

Mr. *J. F. Johnson*

5 September 1845.

1. You keep a registry office for farm and other servants in Sydney?—I do.
2. How long have you carried on that business?—About three years and a half.
3. And have considerable experience as to the state of the labour market?—Yes.
4. Can you speak as to its present state with respect to agricultural and pastoral servants?—Both shepherds and farm servants are very much in demand.
5. Do you think the demand is increasing?—I do.
6. Are wages rising?—Within this last month wages have risen 25 per cent.
7. From what sum to what sum have they risen?—Shepherds were hired for Moreton Bay at from 14*l.* to 15*l.* a year; parties are now obliged to give from 18*l.* to 20*l.*, with more liberal rations.
8. Do you anticipate a still further increase in the rate of wages, if there be no further supply of immigrants?—I think, during the coming busy season, there will be a considerable rise, unless steps be immediately taken.
9. Do you think an immigrant coming to this colony improves his condition generally?—I am sure of it; many farm servants in the pastoral and agricultural districts in England do not average 5*s.* per week all the year round; many do not taste meat from Christmas-day to Christmas-day, and tea and sugar (except by name) are unknown; this is more particularly the case in the counties of Berks, Bucks, Gloucester, Somerset and Oxon, some with families of extremely serviceable ages, say from 10 to 15.
10. By the *Auditor-general.*] Do you think the great majority of immigrants have improved their condition by coming here?—I do.
11. By the *Chairman.*] Has it come to your knowledge that many of the labouring classes here are able to accumulate money from their earnings to a great extent?—Yes; I think it is the fault of all of them if they do not, more particularly within the last 12 months. A man, who had been fulfilling an engagement of 12 months in the interior as a house servant, returned to me with 20*l.*, the savings of that year; the 20*l.* he dissipated in less than 10 days, purchasing only a coat, for which he paid 1*l.*; this is the fourth year this individual has been known to me, during which time he has spent 85*l.* in the same foolish and profligate manner; this is merely one case out of many hundreds I could mention.
12. Is there not a great want of female servants in Sydney?—Yes; if I had 300 or 400 I could provide them all with places before the expiration of a week.
13. By Captain *Dumaresq.*] In the town, or country?—Both; the demand in the country is very extensive, as well as in town; many in the interior have been without female servants for months; this arises partly from natural disinclination to the bush, and partly from the injudicious manner in which the selections have been made. The better servants in this colony are from the north of Ireland and west of England, being active, intelligent, moral, and less given to pert answers.
14. By the *Auditor-general.*] At what rate of wages could females be engaged?—There are different descriptions of servants, and the wages would of course vary with their ability; you could not obtain a good cook who really understood her business under 17*l.*; the average wages of the ordinary descriptions of servants is about 14*l.*

The present rate of wages (Females.)

	£.	£.
Cooks	17	to 20
Housemaids and Laundresses	14	to 18
General Servants	13	to 16
Dairymaids	14	—
Nurses	13	to 18
Nursemaids (girls)	6	to 10

Governesses obtain from 40*l.* to 50*l.*; a few moral young ladies of this description would be of infinite service.
15. By Mr. *Cowper.*] What would housemaids receive?—Fourteen pounds; a decent young woman cannot be obtained under that; and if such a servant were wanted to go far into the interior, she would ask more, in consequence of the extra prices charged for clothing in the country.
16. By Dr. *Lang.*] Do you find a large proportion of these young women who have been employed as female servants on their arrival, speedily get settled?—Those who go into the interior, if they conduct themselves properly, soon get married, and become employers of others, thus adding doubly to the demand.
17. That of course increases the demand for labour?—It does.
18. Do you think, generally speaking, it is safe for the morals of a young woman, to come to this country to be engaged as a servant; would you say there is any particular difference between the circumstances of this colony in that respect and the mother country?—No; if they have a disposition to conduct themselves properly, there is no greater temptation for them here than there. If properly selected, and more particularly in the interior, the temptation is less caused by the facility with which married couples obtain employment, and the encouragement now given to such parties.
19. You think the class of female servants generally, throughout the mother country, would greatly improve their circumstances by coming to this colony?—No doubt; the class of servants that would be the most useful here, is that called the "servant of all work;" in London they would get 7*l.* or 8*l.* a year, here they would get 14*l.* This class of servants would be of the greatest service in towns; those mentioned in the remarks added to question 9, would be most suitable for the interior.
20. By Captain *Dumaresq.*] Do you think the difference in the price of articles of female attire would be equal to the additional wages?—At present the prices of apparel are about equal in both countries.
21. By Mr. *Cowper.*] Then the difference of wages is so much profit?—Yes.
22. Could you form any estimate as to the number of immigrants likely to obtain employment in the next 12 months; how many, do you think, might be safely imported, so as not to cause a glut in the market?—I think we could provide for from 6,000 to 8,000 eligible working hands, both male and female, say 2,000 single females, 3,000 single men, and from 1,000 to 2,000 married couples.
23. Do you include Port Phillip in that calculation?—No.
24. By the *Chairman.*] You think, allowing for a fair proportion of children, we could take about 10,000 people?—Yes; but the fewer children (unless soon able to work) the better.
25. By Mr. *Cowper.*] Would you recommend that any of that number should be mechanics?—I should not recommend the importation of any carpenters, but we can take a few country blacksmiths and wheelwrights, about 100 of each.
26. Stone-masons and bricklayers?—They might come out, but I would not hold out any inducement to them.
27. You would not give any bounty to them?—No.
28. You have had great experience in hiring servants, and negotiating between them and their masters, both in country and town?—Yes.
29. Do you find that there is generally a good feeling between masters and servants, or that there are disputes with respect to wages, and misunderstandings?—There were frequent disputes about wages twelve months or two years back, but I think the circumstances that gave rise to those disputes have been in a great measure removed.
30. That was during the time of great distress?—Yes.
31. Do you think, as the colony gets into a more prosperous state, such disputes will be very seldom heard of?—The confidence of the servant would be revived.

Mr. *J. F. Johnson.*

5 September 1845.

32. You do not hear many complaints now of servants not getting paid?—No; such cases are fewer in the country now than in the town.

33. By the *Auditor-general.*] Is there still a great indisposition on the part of labouring men to go into the country?—Not so much latterly as there used to be; there always will be a disposition in some to remain about towns, from the injudicious selections (of immigrants) that have been generally made; they have been taken from towns and are not suited to a country life; generally speaking, due care has not been exercised by the selecting agents, or those who act for them in the provincial districts; with respect to female servants, they have been very improperly chosen, too many having been "needle women," amongst whom, from the low rate of remuneration afforded in London, &c., are many professed street-walkers, who unite the two businesses; these parties, when tired of England, or desirous of a change, have only to obtain a certificate from the slop-shop, from which employment was last obtained, and they are then considered fit and proper persons to emigrate; these are the individuals who are to be the close companions during the voyage of single men, and the wives and daughters of reputable men of family; the household servants of our own houses; the nurses of our children; our shepherds' wives; and the reformers of our convict population! The practice of sending single men and single women by the same ship is highly objectionable; the latter should be sent by themselves, or with married couples; in either case they should be under the control of a respectable matron, if possible, the wife of the superintendent, and who should accompany him on going his rounds; in cases where the surgeon-superintendent, or any other officer, should provide themselves with mistresses from the vessel, on arrival in Sydney, or during the voyage, I would recommend the non-payment of any gratuity, such officer, on faithfully performing his duty, would have been entitled to.

34. By Mr. *Cowper.*] Do you think there are still any persons remaining in the city unemployed?—Yes, there are persons still holding out in expectation of an advance of wages, even beyond what I have named; they find parties about town who will provide them with board and lodging, and it is for the purpose of paying these parties that servants when they are engaged wish for an advance; the practice, therefore, of giving an advance to a man at the time he is engaged, tends to raise the rate of wages, and is injurious to the interests of employer and employed.

35. Are there persons who keep lodging-houses in town, who will maintain these men under the hope of being repaid by this advance when the men are hired?—Yes, I know several.

36. By Dr. *Lang.*] Do you think it would be desirable to have a considerable importation of females to this colony?—Yes, provided they came by themselves, or under the care of married couples; I should not approve of the plan of sending single men and single women by the same ship.

37. From your knowledge of that class of persons, do you think virtuous females at home, having little prospect there, would be induced to immigrate to this colony in the way you suggest?—Yes, if they were sure the state of society here was what it is.

38. And if they had reason to believe they would be under suitable protection during the voyage?—Yes; but the principal difficulty is their protection here; that is, if they were aware that the state of society afforded them the protection it does.

39. What improvement upon the present system would you recommend?—In the first place we must have a better selection; greater caution should be exercised by the agents at home.

40. Is there any thing defective in the arrangements here for receiving or disposing of them after they have arrived?—If a depôt were established here, that might be attended with a great deal of evil; perhaps, therefore, the better plan would be for the parties to be hired on board the ship. From my experience as clerk to the Home for Female Immigrants, for six months (until its failure), as well as that gained in my present undertaking, I should not advise the formation of a similar establishment or any other description of depôt; persons of good character and industrious habits, from the high rate of wages and the facility with which they obtain situations, can protect themselves; depôts often spoil the good by being so closely in contact with the bad; and few, beside the lazy or immoral, would desire to become inmates.

41. By Captain *Dumaresq.*] You are aware that those who came by the last ship did so?—Yes; there was more care exercised in forming the engagements of the latter immigrants, than of those who arrived before; on the arrival of the previous vessels, *i. e.*, 1844, there were many persons of extremely objectionable character, who went on board with the view of hiring servants (females in particular), many of them I pointed out, and had the satisfaction of seeing them not only handed over the ship's side, but refused admission on board the vessels arriving later. It would be advisable, instead of mooring the ships alongside the wharfs, to anchor in the stream; by this arrangement the idle and dissolute would not be enabled to get on board, as has been the case, attempting to prejudice the recently arrived against those who would hire them, as well as against the interior, to the injury of both; many refused situations on board from this reason; this was particularly the case during the time Government employment was afforded, and the duration of the Mutual Protection Association.

To the Editor of the "Australian."

Sir,

The excellent remarks made by you in the "Australian" of the 5th current on the subject of "Female Immigration," leave but little scope for any hints I may be desirous of throwing out on a topic of as much importance to our well-being as a community as to our private domestic comfort.

The institution to which you refer in London (the model from which, however humble the attempt, I have endeavoured to form this establishment) has been signally successful in its endeavours to induce servants to place more value than formerly upon that which is a servant's only source of prosperity, a good character, and brings employers more closely in connexion with those who possess that indispensable requisite.

As the revival of immigration is admitted by all to be necessary, and we have been told, that it is upon our own exertions to procure that revival we must rely, the sooner some plan be devised the better; with that view, as well as of eliciting discussion, I beg to suggest (as our land fund is no more) a public subscription, assisted by an increased tax on all dogs, except those employed at sheep stations; a tax on all incomes (say above 150*l.*); and upon carriages and livery servants. I have mentioned these, imagining the burden will thus be thrown upon those who, possessing these luxuries, and employing a greater number of servants, would derive most benefit.

So soon as measures of this description, or others deemed (from discussion on the subject) more eligible, are in progress, and funds raised sufficient to provide for the transmission hither of 100 female immigrants, I would suggest the formation of a committee, by whom a correspondence could be entered into with the committee of the institution referred to, and through whom offers could be made to eligible domestic servants, of passages to this colony, upon payment of 5*l.* each, the remaining portion to be paid on their safe arrival here.

Impressions, as unfavourable as unjust and injurious, respecting this colony, have been permitted to remain uncontradicted. To remove these, as well as to satisfy those at home, who have either the power or the inclination (or perhaps both) to do us harm, permit me to make known, through your columns, that any single female, or number of females, who may (in consequence of what I have said, or may at any time say) be induced to emigrate, if of respectable character, I will provide with board and lodging gratuitously, until they be settled in respectable and permanent situations, such servants bringing, as their guarantee, written introductions from the secretary of the institution referred to.

I think

I think the system of sending unmarried males and females by the same ship highly objectionable; the latter should be forwarded under the care of married couples, or by themselves, and under the immediate guidance and direction of a respectable matron, who should be, in cases where practicable, the wife of the surgeon-superintendent, and a portion of whose duty it should be to accompany that gentleman when going his rounds, at least twice a day.

Since writing the above, my attention has been drawn to a paragraph in this day's "Australian," headed "Emigration," and extracted from the "Globe" of October last, reflecting at some length, and in no measured terms, on the conduct of the Board of Guardians of St. Mary, Newington, in inducing or attempting to induce some of their able-bodied single paupers to emigrate to these colonies. This appears to be a subject of importance, inasmuch as it shows that the parishes at home will co-operate with us in procuring labour if Her Majesty's Government will not.

With your kind permission, I shall avail myself of the opportunity of replying to and endeavouring to refute the statements of those misguided individuals, the editors of the "Times" and "Globe," considering that, if permitted to remain uncontradicted, they will prove extremely prejudicial to any means we may adopt for the resumption of emigration.

I am, Sir,
Your obedient servant,

General Agency Office, North Castlereagh-street,
14 August 1845.

J. Frederick Johnson.

No. 2.

Copy of the Address of the Legislative Council of *New South Wales* to Governor Sir *George Gipps*.

To his Excellency Sir *George Gipps*, Knight, Captain General and Governor-in-Chief of the Territory of *New South Wales* and its Dependencies, and Vice-Admiral of the same, &c. &c.

May it please your Excellency,

We, Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales in Council assembled, beg respectfully to request that your Excellency will be pleased to transmit to the Right honourable the Secretary of State the Report of the Select Committee on Immigration, and the following Resolutions of this Council founded thereon, copies of which are enclosed.

We further beg to request that your Excellency will be pleased to recommend to Her Majesty's Government to adopt such measures as may seem fit, for the speedy and effectual accomplishment of the recommendations therein contained, and especially the recommendation that a portion of the expense of immigration be defrayed from the funds of the mother country.

1. That it appears to this Council that there is throughout the colony at the present moment a very inadequate supply of labour for pastoral and agricultural purposes, and that the deficiency is soon likely to be felt to a still greater extent; and that the effects, both immediate and prospective, of this deficiency must be to retard the general prosperity of the colony, and, by an increase in the rate of wages, materially to affect the production of its staple export, wool.

2. That in the opinion of this Council, an immigration of 12,500 persons annually is indispensable, to meet the wants of the colony.

3. That, for any loan which Her Majesty's Government may think fit to sanction for purposes of immigration, ample security exists in the Crown land revenue; that such revenue would, if faithfully and economically applied, afford adequate means for paying the interest of such loan, and also provide a sinking fund for its gradual extinction.

(signed) *Alex. M'Leay*, Speaker.

Legislative Council Chamber, Sydney,
7 October 1845.

NEW SOUTH WALES.

(IMMIGRATION.)

COPY of the REPORT of the COMMITTEE of the LEGISLATIVE COUNCIL of *New South Wales*, on the subject of IMMIGRATION.

(*Mr. Francis Scott.*)

Ordered, by The House of Commons, *to be Printed,*
22 *June* 1846.

[*Price* 7 *d.*]

418.

Under 8 *oz.*

NEW SOUTH WALES.

RETURN to an Address of the Honourable The House of Commons, dated 24 July 1846;—*for*,

"COPY of MEMORIAL addressed to HER MAJESTY'S SECRETARY OF STATE for the COLONIES from the STOCKHOLDERS of *New South Wales*, relative to the OCCUPATION of LAND beyond the Boundaries of Location."

Colonial Office, Downing-street, 29 July 1846.

B. HAWES.

My Lord, Sydney, January 1846.

As we have observed that the Bill for regulating the Administration of Waste Lands in Australia has been deferred until next Session of Parliament, in order to give time for its consideration, we embrace the opportunity afforded by the delay, to offer to your Lordship some comments upon it, and we shall make these the more frankly and unreservedly, as we are happy in believing that you have postponed the measure for the express purpose of investing us with such a privilege. But as the decision at which your Lordship is about to arrive is of vital importance to this colony, and one on which not only its fortunes, but its eventual tranquillity must depend, we may be permitted to call to your Lordship's recollection the precise position which the stockholders beyond the boundaries in New South Wales occupy at the present moment.

It is now about 14 years since squatting commenced in this colony. The system originally adopted to a small extent by the old settlers, received its chief impulse by arrivals from England. Emigration was encouraged by the Imperial Government, and in consequence of the flattering statements with regard to New South Wales, which the Home authorities countenanced if they did not originate, emigrants were induced to come out in great numbers. When they arrived here they found a territory already filled up. The 19 counties which comprise the colony of New South Wales proper, running along the sea board, contain little available pasture land, and that little was fully occupied by the old residents. The emigrant was therefore placed in a painful position. If he returned to England, he incurred the expense of lost time and unemployed capital. If he remained and invested his money in stock, he had no alternative left but that of going outside the boundaries and squatting. This was not a voluntary act; it was forced on him by the Government. They had tempted him to a colony, to remain within whose narrow limits was to starve, and it was the hope of existence, and not free-agency, which led him beyond them. Thus, the victim of a necessity which he had not contemplated when leaving home, the emigrant became a squatter. But a short period was requisite to make him acquainted with the difficulties of his new position. He had to build a residence for himself, and huts for his men, his stock required paddocks, yards, barns and shearing sheds; if he did not erect these substantially, it was impossible for him to compete with the foreign wool grower; if he did erect them substantially, the Government informed him that as raised upon Crown Land they became the property of the Crown, and that without compensation. If allowed to remain on his station, it was officiously forced on his notice that he did so by sufferance of the Executive. If compelled to depart,—from the labour, the risk, and the expense of moving his stock, he became ruined in the transit. In every way it was impressed upon him, and that not by implication but by positive language, that he was a mere vassal, and, like the vassals of old, held his right at the will of his lord.

Worn out by such a system, and the petty tyranny consequent upon it, we, and the other members of the pastoral community, individually, or through the medium of the public press, remonstrated with the Government, and showed how ruinous to all enterprise was such uncertainty of position. We spoke in vain. The authorities would not let; they would not sell; they would give

no tenure, and would promise no compensation. The system, ruinous to us, answered them well enough. It gave at once profit and power. It gave profit—for the large revenue derived from the new districts, coming under the head of droits of the Crown, was not amenable to the control of the future elective Legislature, and made them independent of it. It gave power—for so long as the Colonial Executive retained to itself the right of turning any one out of his station, it was understood, and correctly, to hold a lash over the heads of the settlers, which inspired a wholesome awe of the Government, and stifled complaints by making it dangerous to express them. Nor was such a power a mere matter of pageantry; it was occasionally exercised. A stockman of Mr. Lee, of Bathurst, was guilty of a felony. Mr. Lee was not at the time within 200 miles of the spot, and had not in any way sanctioned the act; but he was deprived of his station, and but for resources elsewhere would have been ruined—a piece of justice equivalent to hanging a gentleman in England for a murder committed by his coachman. A thraldom so useful to despotism has been carefully perpetuated. A new constitution was given to New South Wales; but it was arranged that we, who in education were second to no class in the colony, and who supplied the great proportion of those exports by which it existed, should have no share in it. We could neither elect nor be elected; we were subjects of the Queen, so long as heavy imposts were to be raised at our expense; we became simply "Arabs of the Desert" the moment that we demanded reciprocal rights from the Government. But though property may be annihilated, it is impossible to neutralize mind by Acts of Parliament. The influence which we were entitled to have had directly, we exercised indirectly; the elective portion of the new Legislature almost to a man took up our cause; and the Government, although possessing 12 nominee members out of 36, were constantly in a minority. Indignant at an opposition which it had not contemplated, and which was formidable alike from its firmness and its talent, the Local Executive became violent—the feeling of hostility was responded to by the colonial population, public meetings were held in every direction, and it was decided to send home to your Lordship a statement of our grievances.

From the period of the transmission of our memorials up to the receipt of your Lordship's reply, a year passed over, during which the struggle between the stockholders and the Government, as it was protracted, became more bitter. At last affairs assumed a threatening aspect. It had been for some time evident that the squatters had the power of seriously embarrassing the Executive, and it was understood that they were now disposed to exhibit the will. In this crisis Sir George Gipps, at the eleventh hour, made concessions to popular opinion; and Mr. Deas Thomson, the Colonial Secretary, a man who, to an intimate acquaintance with New South Wales, unites talents, and a character universally respected, came forward as his organ and offered terms. We quote his words:

(Extract from the Sydney Morning Herald, August 6, 1845.)

Mr. Cowper said, that following up the notice which he had previously given, he would beg leave to ask the Colonial Secretary what were the intentions of the Government with reference to the adoption of any permanent system for the occupation of Crown Lands. He had already communicated the system upon which this information could be rendered in the points most essential to the public interest. First, with reference to the tenure of lands, stating whether leases, and if so, what term of lease would be granted, and at what amount of rent. Secondly, with regard to the homestead, stating what extent of land was to be purchased, what rate per annum was to be paid, and what was to be determined upon as the right of pre-emption. Also, whether the assessment was to be levied by Commissioners solely or by assessors acting with them, after the manner of a jury; and thirdly, whether it was proposed to establish petty sessions beyond the boundaries, and how the various sums raised were proposed to be appropriated.

The Colonial Secretary replied as follows:—I regret that it is not in my power at this present moment to make that full and unreserved communication to the Council of the intentions of the Government respecting the squatting regulations, which I could have desired. But there are many important points yet to be definitely settled, and some important considerations arise, which render it unadvisable immediately to promulgate any regulations of a permanent character. The whole question of the administration of the Crown Lands has been formally brought under the consideration of Her Majesty's Government by an address from this House. It is very desirable, therefore, that the reply of Her Majesty's Government to that address should be known before any permanent regulations are established and made public. It is also essential in a matter of such vital importance to the interests of the colony, that the Executive Government should not be hurried into a premature

mature decision upon points of such great magnitude, not only to the present occupants but to future emigrants. But so desirous am I of communicating as much as possible, that I think it right to give the following outline of the general principles which will probably guide the Government in framing permanent regulations, if the matter should, on the ultimate decision of the Home Government, be left to the local authorities. And I trust that the House and the colony at large will be encouraged by that which I now communicate, and not discouraged by the silence which on many points I am compelled to observe. The chief points upon which I understand that the Council is desirous of receiving information may be briefly stated to be the quantity of land to constitute a homestead, the nature and duration of the tenure, the mode of sale, and the application of the fund. With respect to the quantity of land to constitute a homestead, the Government has as yet arrived at no decision; but in the event of the quantity being materially reduced below that originally proposed, the expenses of the survey will be charged upon the purchaser. It is intended that the purchase of a homestead shall secure to the purchaser an assured occupancy of a sufficient extent of land for pasturing 4,000 sheep for eight years, which will be converted into a lease for that term, in the event of the power to grant leases for periods of years being conferred on the local Government. In addition to this, the present occupant will be allowed four years from the 1st of July last, to purchase his homestead, thereby securing to the occupier, if he purchases, an occupancy for 12 years from that date. The yearly charge for such occupancy will be 10*l.* The question of estimating the grazier's capability of any extent of country is surrounded with difficulties entirely of a practical nature. This point is still under the consideration of the local Government. The application of the funds derived from the sale of homesteads will be made under the provisions of Lord Stanley's Act; but the proceeds of the annual rental will be expended under the directions of the Lords of the Treasury, it being understood that the main object in raising a revenue from the waste lands of the Crown is to create a fund for the promotion of emigration. In the present state of the law, the mode and terms of sale must be in accordance with Lord Stanley's Act. But I am authorized to state to you, that though the Governor remains unaltered in his opinion, that the granting of pre-emption would probably involve the Government (at no distant period) in various difficulties, yet, seeing how urgently pre-emption is desired in the colony, and that many people of influence in England desire also to see it granted, the Governor did, in the month of October last, signify to the Secretary of State his wish not to be considered the only person opposed to it; and, as much importance has been attached to the fact of the Governor's having so expressed himself, I have his Excellency's authority for reading to you the very words he made use of:—"If, however, it be decided to open the Crown Lands Act of 1842 to amendment, various questions will present themselves—the first and most important of which is that of 'pre-emption.' My objections to the right of pre-emption are, that it will greatly increase the species of gambling for land, which is always more or less actively going on in the colony, especially for land in good locations or positions, which have the command of water; and that it will tend to bring the business of the survey department again into arrears; and, indeed, to throw all matters connected with the sale of land into confusion. I acknowledge, however, that pre-emption might be attended with some advantages, and I believe there is an impression in favour of it among persons in England, who take an interest in colonial affairs; I therefore cannot but feel that it probably will be conceded; and though I cannot take on myself the responsibility of recommending the measure, I am therefore prepared to acquiesce in it. To grant to a squatter the right of purchasing his homestead at a fixed price, after having been a certain number of years in possession of it, would doubtless be much more simple in its operation than to expose him to the risk of an auction, even though the value of his improvements were secured to him in the manner which I have recommended."

The terms offered by the Colonial Secretary were, in two words, the right of pre-emption, together with a lease for 12 years; but clogged with the necessity of purchasing blocks of land at 1*l.* an acre. Had the lease been unfettered, it would have been a great improvement on our present tenure; but the compulsory purchase was and is objected to, as the bought land, if severed from the run at the termination of our occupancy, was worthless, and the squatters felt indisposed to pay what was, in fact, an enormous fine for a short period of possession. Still, as the proposition bore evidence of the Government being inclined to concede, we withdrew our opposition, which might have forced the Executive and Legislature into collision, and agreed to accept the offer as an instalment, and to pay an increased amount of license, on the faith that Sir George Gipps should obtain the ratification of it from your Lordship. Our part of the contract we have faithfully fulfilled. In addition to the heavy and *double* tax to which we had previously been subjected, consisting of license money, amounting in 1844 to 19,710*l.* 15*s.* 6*d.*, and an assessment raised by the imposition of 1*d.* a head upon sheep, and 3*d.* upon cattle, amounting in 1845 to 31,051*l.* 5*s.* 9*d.*, we paid into the Colonial Treasury, as the price of the concession of the Government, an increased license fee, amounting to 12,330*l.* 14*s.* 6*d.*; and the Session of the Legislative Council, which at one time threatened to be a stormy, perhaps a dangerous one, passed off in perfect harmony.

Of the intention of the Executive to act up to their part of the treaty we entertain no doubt, and we address your Lordship on the present occasion, not with reference to the past, for that, in perfect reliance on the honour of the Government, we consider it a *res judicata*, but for the purpose of expressing our gratification that you have refused your sanction to the most obnoxious part of the measure, the system of compulsory sales, as by the Bill which your Lordship has submitted to Parliament, we are happy to observe that you do not contemplate their introduction. We would at the same time avail ourselves of the opportunity which you have placed at our disposal. If we understand aright the postponement of the Bill for another year, it is your wish that the colonists should communicate to you their opinion with regard to its enactments, and we do so as far as they affect ourselves. With regard to the other Australian colonies, we are not fortunate enough to possess sufficient acquaintance with their affairs, and if we did, would not have the presumption to offer any opinion on them.

The Bill, which has been brought into Parliament by your Lordship, to regulate the occupation of Crown Lands beyond the boundaries, may be divided into two great portions, viz., the clauses which relate to the conveyance of runs by lease, and those which refer to granting them by license. We will take the liberty of analysing these separately. And first as to the clauses referring to lease—they declare that leases may be purchased by auction—that when not put up to auction they may be limited to a privileged class—that their term is to be a period of seven years, and that the granting or withholding of them is to be at the option of the local Government.

For the adoption of the principle of a lease we have to express to your Lordship our grateful thanks. It is a most important boon to the pastoral population, and involves perhaps the only mode of tenure by which the squatting runs can be made profitable; but we take the liberty of stating that the clauses of the Bill as they now stand would defeat the benefits which it is the evident intention of your Lordship to bestow.

The principle of setting up leases by auction would, we submit, expose to a great degree of injustice the individual who first took up the run. To form a station requires great knowledge, energy and expenditure. The very discovery of a spot eligible for a stock establishment demands the labour of weeks, and not unfrequently of months, during which the intending settler must wander through unknown regions, in hourly danger from the savages on his track, and with no other covering but the sky. The climate, the probable distance from navigation, the openness or denseness of the forest, the permanence of the water, the character of the soil, the grass and the substratum of rock on which it grows, are all matters of anxious investigation. When the site has been selected, it is frequently necessary, from the large tracts of bad land in New South Wales, to go 50 or 100 miles beyond the nearest white man. Buildings and roads are required; the carriage of stores occasionally costs three times the amount which was paid as their original price in the capital. Flocks are driven off by the savages; and the shepherds, who are from time to time murdered, require from 50 to 80 per cent. higher wages than are paid on old and safe localities. To induce a man to face such difficulties one thing is necessary—the hope of future gain; but if the Government enforce its claim to the run by putting it up by auction, it will destroy such hope, and with it the spirit of enterprise and concomitant settlement of this vast continent, which are dependent on it. We cannot too much impress upon your Lordship the fact that human beings will labour only for themselves, and that if the Government seize upon the products of their industry they will assuredly paralyse it. Nor would the principle, while so destructive to the individual, be more beneficial to the community. Letting leases by auction is, in fact, selling the Crown Lands under another name, and, as in all land sales in New South Wales upon a great scale, would give an undue stimulus to speculation, and produce scenes of ruin similar to those consequent upon the land sales of 1840, and from which the colony is but now slowly recovering. The struggle for the possession of the new territories would be between a class called land sharks—the English banks, which are now investing in sheep—and one or two wealthy individuals; the only party which would have no share in the contest would be the industrious classes who first formed the stations, or now possess them. The squatters are almost to a man in want of ready money, are notoriously in the

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hands of their agents, and cannot compete with the Sydney capitalist; and as, in a limited community like this, the value of particular stations is as well known as that of houses in Regent-street or Cheapside, the whole of the most productive runs would pass into the hands of the speculators. The evil would not end here. Let the system of auction be once adopted, and a powerful Joint Stock Company (the idea has been already mooted in England) will become the masters of this colony, and monopolise not only its territory, but its wealth. For the purchasers of the land are in fact also the purchasers of the stock which feed on it, as they only can retain the animals who have pasture to support them. Nor would it avail the unhappy squatter that there are boundless tracts still unoccupied, as no rational being would a second time incur the expense, privation and danger of forming a new establishment, after having ascertained by experience that the only result of reclaiming a wilderness and making it valuable was its being seized by the Crown, and appropriated to its benefit through the medium of an auction. There is still another and a higher point of view in which the question deserves to be considered, its effect upon morality. When the squatter has spent the best years of his life in struggling in the bush, and has seen by slow degrees a home rise under his hands, he insensibly acquires an affection for it; and were the station sold, the price, be the money what it may, would not compensate him for the loss of his associations. The feeling is an honest one, and worthy of being cherished by your Lordship and the Government, for it is an indisputable fact, that a population is virtuous in proportion to its being attached to a spot. Make it vagabond, and you make it immoral.

In the second principle, that a lease should be granted to parties who had held it for five years consecutively, the intention of your Lordship is evidently kind, as we take the liberty to suppose that such a privilege was given to those who had been settled for a certain period as a species of compensation for their expenditure. But although the greater number of the stations in New South Wales have been formed for more than five years, and are largely improved, yet, from circumstances, there are few stockholders who, if the Act were construed literally, would profit by it. Squatting runs, however they may be viewed by the Government at home, have been for some years considered in this country as a species of *quasi* property, have been held as such by courts of law, and have passed from hand to hand by sales, which, if not sanctioned by the authorities, have been at least connived at. In such purchases the price paid has varied chiefly in proportion to the value of the improvements made on them, and the purchaser thus stepping into the shoes of the original occupant, and incurring like him outlay for the possession of certain buildings, has the same claim upon your Lordship's indulgence. But supposing that the boon were limited to the actual first former of the station, those who have been only recently in possession have if possible a stronger title to your favourable consideration than their more anciently settled brethren, as it is during the commencement of a squattage that the greater part of the most expensive erections, such as huts, wool-sheds and paddocks, are created, while from the very short period of his residence their proprietor has had less opportunity of profiting by them. Thus, from the changes which the misfortunes of the last few years have produced, your Lordship's proposition, well-intentioned as it is, would benefit but few, while the creation of a privileged class, and that a limited one, would excite much jealous feeling.

Of the term of the lease, we would remark that it is too short. Even in England or in Scotland, where leases are best understood, on ground where houses, yards and offices, are ready for occupancy, and the furniture of a rural establishment may be purchased in a day, such a period would be considered too limited for the benefit of the tenant; but in New South Wales, where every thing is to be created, and where the squatter finds nothing on the run conceded to him by the Government but the grass, the water and the gum-tree—where buildings and fences must be raised, and wool-presses and machinery of recent invention imported from England, the lease would expire before the means of making it available were well completed. It is from the absence of some such lengthened tenure that a great part of this colony is at present useless. It is not uncommon to find tracts of land, 50 or 60 miles square, covered with the finest herbage, but unoccupied from the want of water, as no one under the present system will incur the expense of digging wells or damming gullies, for

the purpose of making reservoirs. Even in the settled districts, during drought, such a result occasionally occurs. In 1839 and 1840 almost every river to the westward was dried up; and Liverpool Plains, at one time the most favoured squatting locality, nearly deserted. In the course of 70 miles, from Pages River to the Peel, there was only one permanent water-hole; and an immense country, which but three years before had been crowded with stock, was left, and we speak literally, without sheep or cattle. We feel a delicacy in alluding to your Lordship's private affairs, but, if we have not been misinformed, we understand that your Lordship's tenantry enjoy the possession of long leases. The system which, upon mature deliberation, has been found necessary to their prosperity, is still more so to ours. With them the limited character of the tenure injures merely the occupant of the soil. With us it does more, for it not only hampers those who may chance to have a temporary possession, but it paralyses the advancement of the colony by forming an insurmountable obstacle to the immigration of a married population of the middle class. Families are little locomotive, and it is only where there is the certainty of a permanent residence, and a settled, if not brilliant future, that they will resort for the purpose of seeking a home.

A clause of the Bill still remains for consideration, and we approach it with regret. It is that which makes the granting of these leases not a matter of necessity or positive law, but one which may or may not be adopted at the option of the local Executive. Every Colonial Government, when far removed from the supervision of its chief, whatever its apparent responsibility, must be, and has been in fact, a despotism, unless when subjected to local control. Like other viceroyalties of the British Crown, the Executive of New South Wales enjoyed this absolute authority, and, as might have been expected, used it absolutely. We endeavoured to check its encroachments, but without effect; for the immense civil list conceded to it by the Home Government, amounting, with the revenue of the Crown Lands, to £. 150,000 a year, made it independent of our representatives, and men complain in vain when they have no power beyond that of complaint. It was to obtain relief from this system of irresponsibility, and the despotism consequent on it, that we first appealed to your Lordship. The reports which were transmitted to you by the Legislative Council were distinguished by their truthfulness and eloquent exposition of our grievances, and had been adopted in New South Wales with the zealous approbation of an immense majority of all classes—of our elective legislature, our magistrates, and of almost every man of wealth and judgment in the colony. To so unanimous an expression of public opinion, with eager and anxious expectation we awaited the reply. We have received it at length, in that clause of the Bill which is now the subject of our comment; and we cannot disguise from your Lordship, that the decision which is contained in it—a decision by which you have not only given the sanction of your high office to the past, but have conveyed to that Executive of which we complained an absolute power over our fortunes and happiness for the future—has excited in the minds of the colonists an almost universal feeling of bitterness and sorrow. Could we be fortunate enough to induce your Lordship to believe that communities, like individuals, understand best the management of their own affairs—that in all matters which do not affect the empire, but are strictly proper to the colony, we better than any other know our wants, feel most sensitively our grievances, and are most quick-sighted as to the surest and readiest mode of relieving them; could we persuade you to give us a Legislative Council, representing not merely a limited number of landholders and townspeople, but every one who has an important stake in the colony,—above all, could we obtain from you a Government which should be made responsible to the people who support it, and for whom it was created, we do assure you, and with confidence, that we should be a community wealthier and happier, and more contented; for the change of sentiment which has taken place in the pastoral districts of New South Wales with regard to the mother country, within the last few years, is matter of painful notoriety.

With regard to the granting Crown Lands by license, we have but to observe, that if any party should choose to hold his station by such a tenure, we do not of course seek to interfere; but, as a general and compulsory principle, it is impossible to denounce it in too strong language; its effect has been to place the squatters in a state of vassalage to the Government, and to support, if it did not create, that despotic spirit in the local Executive, which has been the cause of the present discontent. Did we hold such a position as would entitle us to

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take a share in your Lordship's councils, we would suggest, that the only way to satisfy the pastoral population of the colony would be, to add nine years to the 12 years' lease of the stations already granted, and give the benefit of a 21 years' lease to all who might chance to be in possession of them at the date of passing the Bill. That to ascertain the rent, the stations should be surveyed by the Commissioners of Crown Lands, assisted by persons acting with them, after the manner of a jury, and assessed (allowing for three years' increase, which should not be taxed till produced) according to the amount, not of the stock which may chance to be depastured on them, but according to the numbers which, if they were fully occupied, they would respectively carry; while, for the encouragement of marriage and a domestic population, the right of pre-emption, at the minimum Government price, should be given to the squatter of all or any part of his run. Such a privilege would be exercised but rarely. In a country where 25 acres of available land are necessary for the support of a bullock, and four for that of a sheep, the price of 1 *l.* per acre, affixed by the Government to Crown Lands, is at least twenty times its real value; but, nevertheless, the possession of the right of purchase would be necessary to those who might wish to secure a limited quantity for the creation of a home. In addition to this, it would be requisite to give to the new leaseholders the elective franchise, with the power of returning representatives for their districts, as it would be idle to bestow upon them a gift without investing them with the means of defending it. They might possess such a power indirectly, but the only mode of securing moderation in its use would be to make it legitimate.

Such, my Lord, are our wishes. We beg respectfully to call to your Lordship's attention, that we have strong claims to your favourable consideration. To us the British Government is, in a great degree, indebted for its knowledge of the Australian continent; but for us that immense territory, which is known by the name of the Squatting Districts, would have been still a desert; a territory which comprises 15 provinces, which extends 1,600 miles in length, by 300 in breadth, and which, within the short space of 14 years, has, by our unassisted efforts, been made to teem with wealth and enjoy the blessings of civilization, as far as our hampered position and limited means enabled us to afford them. By us have been in a great measure created those immense exports of wool and tallow which have made Sydney the first port in the Pacific—have relieved the imperial treasury from the burthen of a penal settlement—have given employment to British shipping, and offered an outlet for British manufacture, such as has been sought for in vain in Europe by ill executed treaties and expensive embassies. But while thus benefiting the empire, we would impress upon your Lordship the fact that we have not been equally successful in advancing our own fortunes. Three years ago the great majority of us were on the verge of bankruptcy, and notwithstanding the fortunate accident of high prices during two successive seasons, many are still embarrassed, while of those who arrived here and invested capital during the great tide of immigration in 1837-8-9, few, if any, were their stock brought into the market at the present moment, could realize the amount expended in the creation of it.

The extraordinary anomaly of the existence of a class which, while adding so much to the productive capital of the empire, has itself remained, notwithstanding its unceasing labour, in a state of poverty, must suggest to so acute a mind as your Lordship's the certainty of there being something wrong in the system under which its interests are administered. Stock farming is the most legitimate profession in New South Wales, for it is the one upon which all others depend; yet there are few instances of an individual having made a fortune by it. Barristers and attornies, merchants, tavern-keepers, and distillers, men whose profits are indirectly derived from our industry, have been able to return to England with properties large and realized, while we, without whom the streets of Sydney would be grass-grown, remain poor! Under such circumstances we turn for succour and redress to your Lordship, as the head of that portion of the empire to which we belong; and we do so with the more confidence, as we have learned that there is at length a disposition to relieve our wants. Without venturing to state that any one measure would act as a panacea, we believe that the right of pre-emption, with the lease for 21 years, without auction, and at a fixed and moderate rent, would tend more to produce such a favourable result than any other. Such a title to property would carry with it,

not only a period of time sufficient to enable us to recover from our losses, but would secure to us that fixity of tenure, for the absence of which no advantages will compensate, and which is necessary alike to our pecuniary success, and to the creation of those domestic ties which alone can render a community moral and happy.

We now leave the matter in your Lordship's hands, in the trust that the measure to be passed through Parliament will be one calculated to preserve the interests of the colony, as well as to allay its discontent; for we should be wanting in the duty which we owe to Her Majesty, and the respect which we entertain for your Lordship, did we attempt to conceal from you the fact, that the system which has been hitherto pursued by the local Executive has done much to alienate from the British Crown the affections of the pastoral population, and, if persisted in, must necessarily and inevitably produce a future, to which no loyal subject of the Queen can look forward without apprehension.

We have the honour to be,
With great respect,
Your Lordship's obedient servants,
(64 Signatures)
Stockholders and other Residents at Newcastle.

Similar MEMORIALS received at the Colonial Office from—

Maitland	83	signatures.
Singleton	46	„
Boyd	50	„
Sydney (Two Memorials)	193	„
The Upper Hunter	61	„

NEW SOUTH WALES.

COPY of a MEMORIAL addressed to HER MAJESTY'S SECRETARY OF STATE for the COLONIES from the STOCKHOLDERS of *New South Wales*, relative to the OCCUPATION of LAND beyond the Boundaries of Location.

(*Mr. Francis Scott.*)

Ordered, by The House of Commons, *to be Printed,*
30 *July* 1846.

543.

Under 1 *oz.*

NEW SOUTH WALES.

RETURN to an ADDRESS of the Honourable The House of Commons, dated 22 June 1848;—*for*,

"COPIES of the DESPATCH from Earl *Grey* to the Governor of *New South Wales*, dated the 31st day of July 1847, and other DESPATCHES and CORRESPONDENCE relating thereto."

Colonial Office, Downing Street, 28 August 1848.

B HAWES.

(Mr. Scott.)

Ordered, by The House of Commons, *to be Printed*, 29 *August* 1848.

SCHEDULE.

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1.	Earl Grey to Governor Sir C. FitzRoy	31 July 1847 (No. 203.)	The erection of Port Phillip district of New South Wales into a separate Colony, under a distinct Government, and other alterations in the Constitution of the Australian Colonies - - - - - - - -	3
2.	Governor Sir C. FitzRoy to Earl Grey	6 Jan. 1848 (No. 3.)	In reply, has taken steps to elicit the opinions of the community on the proposed Measures - - - -	6
			Enclosure 1.—Report by Mr. La Trobe, dated 28 September 1846, on the working of the system of District Councils - - - - - - - - - - - - -	7
			Enclosure 2.—Report on the same subject by Mr. Deas Thomson, dated 27 March 1847, with copies of Charter and other Documents in relation to the establishment of District Councils - - - - - - - - - - - - - -	8
			Enclosure 3.—Letter from the Mayor of Sydney, as Chairman of a Public Meeting, urging suspension of the Measures until the Colonists shall have had an opportunity of appealing to Her Majesty and to Parliament - - - - - - - -	28
3.	Governor Sir C. FitzRoy to Earl Grey	2 Feb. 1848 (No. 31.)	Transmits Petition to The Queen, praying Her Majesty not to assent to any change in the Constitution of the Colony which shall not have received the previous sanction of the Colonists at large; and also encloses a copy of the "Sydney Morning Herald," containing a full Report of the proceedings at a Meeting convened to discuss the proposed changes - -	29
4.	Earl Grey to Governor Sir C. FitzRoy	31 July 1848 (No. 133.)	In reply, states the modified Measures which Government propose to introduce into Parliament in deference to the ascertained views of the Australian community - - - - - - - - -	44
5.	Earl Grey to the Lieutenant-governor of South Australia.	3 Aug. 1848 (No. 36.)	Transmits copy of a Despatch explaining the principles of the Measure for effecting the separation of Port Phillip district from the Colony of New South Wales	46
6.	Earl Grey to the Lieutenant-governor of Van Diemen's Land.	3 Aug. 1847 (No. 124.)	Similar Despatch to the above - - - - -	47
7.	Earl Grey to the Lieutenant-governor of Western Australia.	3 Aug. 1848 (No. 26.)	The like - - - - - - - - - -	47

COPIES of the DESPATCH from Earl *Grey* to the Governor of *New South Wales*, dated the 31st day of July 1847, and other DESPATCHES and CORRESPONDENCE relating thereto.

— No. 1. —

(No. 203.)

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. FitzRoy*.

No. 1. Earl Grey to Governor Sir C. FitzRoy.

Sir, Downing-street, 31 July 1847.

THE long delay which has occurred in communicating to you the decision of Her Majesty's Government on the question of the erection of the Port Phillip district of New South Wales into a separate colony under a distinct government, has been occasioned by the magnitude of the interests at stake, and by the necessity of proceeding with the utmost deliberation, in a case in which any material error might involve consequences of such grave inconvenience. An additional motive for delay has arisen from the nature of the business, alike urgent and momentous, which has chiefly occupied the attention of Parliament during their recent Session. Under the pressure of such exigencies as the failure of a large part of the usual produce of the soil in the United Kingdom had produced, Her Majesty's Government could scarcely hope that the attention of the Legislature could be devoted to the re-construction of the political institutions of Australia, with the care requisite for the safe accomplishment of such a measure. Nor can I altogether regard this as undesirable on other grounds. It has afforded, and will yet afford to Her Majesty's Government the opportunity and the means of framing the Bill to be submitted to Parliament, with more circumspection, and (as I trust) with greater accuracy, than might otherwise have been attainable.

In the year 1846 six despatches were addressed to this office by Sir George Gipps and by yourself on this subject. They were dated on the 23d January, the 29th April, the 21st and the 24th of June, and the 29th September in that year. Of these the first was marked "confidential," the others were numbered respectively 90, 91, 122, 125, and 23. Of these, however, the despatch, No, 91, relates principally to a question of boundaries; and the despatch No. 23, has chiefly in view the commercial relations between the Australian colonies. Each of them, however, has an incidental and an important bearing on the subject of the erection of Port Phillip into a separate government. It is therefore most convenient that I should acknowledge and answer the whole of the series together.

The despatch dated the 29th April 1846, No. 90, and the voluminous annexures attached to it, may be considered as having exhausted the arguments for and against the separation of the Port Phillip district from the rest of the colony of New South Wales, so far as those arguments are drawn from facts or considerations of a local nature. It would be vain to expect from any other body of persons to whom the inquiry could be referred a review of those arguments, more complete, more dispassionate, or conducted with greater ability than is the discussion comprised in the various minutes of the Executive Council of New South Wales of the 1st and 23d April 1846, and in the appendixes subjoined to those minutes. As it would be impossible for me to exhibit a more clear or comprehensive summary of the whole controversy than is to be found in those minutes and appendixes, it will be sufficient for me to state that, adopting in general the reasonings of Sir George Gipps, and of the majority of the Executive Council, Her Majesty's Government have submitted to the Queen their opinion, that Parliament should be recommended to impart to Her Majesty the authority necessary for carrying into effect the practical conclusion of that majority.

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No. 1.
Earl Grey to Governor Sir C. FitzRoy.

I am far from being insensible to the weight of the opposing considerations, or of the authority they derive from the suffrages of the colonial treasurer, and of the Bishop of Australia in their favour. That Right Reverend Prelate has perceived and pointed out the indissoluble connexion between the secular and the ecclesiastical bearings of this question, and has justly felt that the duties of his sacred office imposed on him the obligation of considering it in each of those lights. You will convey to him my thanks for the important aid he has rendered on this occasion to Her Majesty's Government,—an aid which I do not value the less because the objections of the bishop to the contemplated change do not appear to me to countervail the considerations urged in support of it by the majority of his colleagues in the Executive Council.

Without entering at large into the argument, I must yet so far vindicate my own conclusion as to remark, that it rests mainly on the great principle of colonial government, which all theory and all experience seem to me to concur in establishing. That principle is, that all affairs of merely local concern should be left to the regulation of the local authorities; to that principle I know of no general exceptions, unless in cases where local interests may clash with the interests of the empire at large, or in cases where some one predominant class of a colonial society might be disposed to exert such powers so as unjustly to depress some feebler and defenceless class. It was on this general principle that the existing constitution of New South Wales was founded. It is on the same general principle that the proposed qualification of it may be most successfully vindicated.

Local self-government, if necessary for the good of the whole colony, is not less necessary for the good of the several districts of which it is composed. For this reason it was that Parliament provided for the erection throughout New South Wales of municipal corporations, which should, in various respects, balance and keep in check the powers of the Legislative Council. By this method it was supposed that the more remote districts would be able to exercise their fair share of power, and to enjoy their proper influence in the general polity of the whole province. But the result has disappointed this expectation. The municipalities have only a nominal existence. The Legislative Council has absorbed all the other powers of the colonial state. The principle of self-government in the districts the most remote from Sydney is therefore acted upon almost as imperfectly as if the conduct of local affairs had remained under the same management and institutions as those which the existing system superseded.

Members, it is true, are chosen to represent those districts in the Legislature; but it is shown that such of the inhabitants of Port Phillip as are really qualified for this trust, are unable to undertake it at the expense of abandoning their residences and their pursuits in the southern division of the colony. Thus the Port Phillip representation has become an unreal and illusory, not a substantial, enjoyment of representative government.

The principle of local self-government (like every other political principle) must, when reduced to practice, be qualified by many other principles which must operate simultaneously with it. To regulate such affairs with reference to any one isolated rule or maxim would, of course, be an idle and an ineffectual attempt; for example, it is necessary that while providing for the local management of local interests, we should not omit to provide for a central management of all such interests as are not local. Thus questions, co-extensive in their bearing with the limits of the empire at large, are the appropriate province of Parliament. But there are questions which, though local as it respects the British possessions in Australia collectively, are not merely local as it respects any one of those possessions; considered as members of the same empire, those colonies have many common interests, the regulation of which in some uniform manner, and by some single authority, may be essential to the welfare of them all. Yet in many cases such interests may be more promptly, effectually, and satisfactorily decided by some authority within Australia itself than by the more remote, the less accessible, and, in truth, the less competent authority of Parliament.

Her Majesty's Government, therefore, hope in the next Session of Parliament to introduce a Bill for the division of New South Wales into two colonies, the northern of which would retain its present name, while the southern colony would, by Her Majesty's gracious permission, receive the name of the Province of Victoria.

The effect of this alteration would be to render inevitable some changes in the existing

existing constitution of the northern government. When detached from the southern districts, the existing system would cease in many respects to be appropriate and applicable to its new condition, and there appear also to be some particulars in which the practical operation of the present constitution proves that it might with advantage be revised. One of the most material of these contemplated changes is that which involves a return to the old form of colonial constitutions. You are aware that in the older British colonies, the legislature, as in New South Wales, is generally composed partly of nominees of the Crown and partly of the representatives of the people; but there is this important difference between the two systems, that in the one case the legislature is divided into two separate houses and chambers, in the other the representatives of the people and the nominees of the Crown form a single body under the title of the Legislative Council. It does not appear to me that the practical working of this last system would by any means justify the conclusion that it is an improvement upon that which it was formerly the practice to adopt; on the contrary, I see many reasons for belief, that the more ancient system by which every new law was submitted to the separate consideration of two distinct houses, and required their joint consent for its enactment, was the best calculated to ensure judicious and prudent legislation.

Another very important question will arise as to the means which should be taken in order more effectually to provide for the municipal government of the various towns, counties, or other smaller divisions. I have already observed that it was the intention of Parliament, in establishing the existing constitution of New South Wales, to create local authorities of this description; and although that intention has hitherto been defeated, it is not the opinion of Her Majesty's Government that it ought to be abandoned. The experience of our own country, that of the British provinces in North America, and also that of the former British colonies, which now constitute the great republic of the United States, may be said to have conclusively established not merely the great advantages of devolving the management of local affairs upon the inhabitants of districts of moderate size, acting by their representatives, but likewise the converse of this, and that evils of a very serious kind result from committing the exclusive management of the affairs, both general and local, of a whole province, to a central legislature, unaided and unbalanced by any description of local organization. It follows, that in revising the constitution of New South Wales, it will be necessary to consider what changes ought to be made in the existing law for the erection of municipalities, in order to secure to those bodies their just weight and consideration, and especially whether, with that view, they may not be made to bear to the House of Assembly the relation of constituents and representatives.

Some method will also be devised for enabling the various legislatures of the several Australian colonies to co-operate with each other in the enactment of such laws as may be necessary for regulating the interests common to those possessions collectively; such, for example, are the imposition of duties of import and export, the conveyance of letters, and the formation of roads, railways, or other internal communications traversing any two or more of such colonies.

I will not attempt at the present moment to do more than to indicate the general principles on which it is proposed to legislate. The details will be the subject of further and of very attentive consideration.

That part of the plan which respects the creation of a central authority implies the establishment of the system of representative legislation throughout the whole of the Australian colonies, including Van Diemen's Land and South and Western Australia, though in the latter it will probably be thought right to postpone the operation of the change until the colonists shall be prepared to defray the expense of their own civil government without the assistance of an annual Parliamentary grant.

In giving effect to these intentions, it will be my duty to take the necessary means for adjusting the question respecting the boundaries of New South Wales, South Australia, and Western Australia, to which Sir George Gipps refers in his despatch of the 29th April 1846, No. 91.

I shall take the same opportunity of proposing to Parliament to adjust the questions of territorial revenue between the two provinces of New South Wales and Victoria, to which Sir George Gipps refers in his despatches of the 21st June 1846, No. 122, and of the 24th June 1846, No. 125.

The subject of your own despatch of the 29th September 1846, viz., the

No. 1. Earl Grey to Governor Sir C. FitzRoy.

imposition of discriminating duties, in any Australian colony, on goods the growth, produce, or manufacture of any other Australian colony, will also be adverted to, and provided for, in that part of the contemplated Act of Parliament which will relate to the creation of a central legislative authority for the whole of the Australian colonies.

With these general remarks, I must for the present dismiss a subject, the importance of which would merit, and may hereafter receive, a much more copious examination and discussion. What I have written will, however, I trust be sufficient to relieve the anxiety of the public mind in New South Wales respecting arrangements pregnant with results so momentous to that part of Her Majesty's dominions, and therefore so deeply interesting to every other member of the widely extended empire over which Her Majesty reigns. It will be no slight relief to the responsibility of proposing such a change to find myself in possession of the most complete local intelligence, and supported by the opinion of the most eminent local authorities. I need scarcely add that it will be a source of the highest gratification to me if, under the authority of Parliament, the colonial governments of Australia can be settled on a basis on which the colonists may, under the blessing of Divine Providence, themselves erect institutions worthy of the empire to which they belong, and of the people from whom they are descended.

I have, &c.
(signed) *Grey.*

— No. 2. —

No. 2. Governor Sir C. FitzRoy to Earl Grey.

(No. 3.—Executive.)

Copy of a DESPATCH from Governor Sir *C. FitzRoy* to Earl *Grey*.

Government House, Sydney, 6 January 1848.
(Received 8 May 1848.)

My Lord,

Page 3.

Your Lordship's despatch, No. 203, of the 31st July last, on the subject of the erection of the Port Phillip district into a separate colony, and informing me of the changes proposed by Her Majesty's Government in the constitution of the Australian colonies generally, reached me at a moment when a severe domestic affliction rendered me incapable of attending to my public duties; I, however, lost no time in directing that it should be submitted to my Executive Council, and it was accordingly laid before that Board at a meeting at which, in my absence, Sir Maurice O'Connell presided; and by the advice of the Council the despatch was printed, for the information of the public, in the Government Gazette, as the best means of complying with your Lordship's desire to elicit the opinions of the community relative to the measures contemplated by Her Majesty's Government, the Legislature not being in session.

I am sure your Lordship would, under my present circumstances, excuse my offering any lengthened remarks upon these measures, even if I had been called upon by your Lordship to do so; but it is right that I should inform your Lordship that, from what I know of the general feeling throughout the colony on the subject of district councils, the proposal to make these institutions bear to the House of Assembly the relation of constituents and representatives, will be very unpalatable to the colonists, and will not fail to create great opposition and discontent. I also deem it my duty to put your Lordship in possession of two reports, drawn up at my request some time since by Mr. La Trobe and Mr. Deas Thomson, the latter of which gives a complete history of the working of the district councils of the colony, from their first institution to the present moment: and I know of no persons in the colony whose sound practical understandings and long experience entitle their opinion to greater weight than these two gentlemen.

Mr. La Trobe. 28 Sept. 1846.

Mr. Deas Thomson. 27 March 1847.

The recurrence to the old form of colonial constitution by the division of the Legislature into two separate chambers will not, I apprehend, be ill received, at all events by those persons in the colony who understand the subject, and will give it fair consideration. I can have no hesitation in stating my own opinion,

opinion, founded upon long practical experience, that it will be a decided improvement upon the present form of legislation in this colony.

I further beg to transmit to your Lordship the copy of a letter addressed to me by the mayor of Sydney, as chairman of a public meeting which was held in Sydney on the 5th instant, which I have just received, requesting me to use my influence with your Lordship to prevent the introduction of the proposed measure until the colonists shall have had an opportunity of appealing to Her Majesty and both Houses of Parliament. 6 January 1848.

I have, &c.
(signed) *Chas. A. FitzRoy.*

Enclosure 1, in No. 2.

Encl. 1, in No. 2.

District Councils.

The practical effect of the application of the system of district councils authorized by the Imperial Act 5 & 6 Vict. c. 76, to the Port Phillip district, has been to retard rather than facilitate the advancement of that portion of the colony, and the progress of its internal improvement.

It took, so to say, the power of effecting local improvements, and the performance of certain functions, out of the hands of the executive government, under the pretence of placing them in the hands of those who might, in the abstract, be considered best acquainted with the wants of the community, and with the fittest means of meeting them; while it seemingly would relieve the general revenue of the colony from the burden of wholly bearing the necessary expenditure; but in its practical working it has totally failed in effecting the objects aimed at.

District councils were established in the counties or districts of Bourke and Grant. These have now been in existence for four years; yet it is not in my power to point out a single instance or particular in either case in which the object of these establishments has been attained. There has not been one road made or repaired under their charter, not one school established, not one public building erected, and not one farthing raised or applied to the support of a district police or to the administration of justice. If you except some unimportant preparatory surveys, and the execution of certain preparatory estimates, nothing whatsoever has been done.

To issue the charter and name properly qualified persons to form the district council in the first instance, was the duty of the Governor, and no very difficult matter; neither was the first internal organization of the council, when so established, difficult. Rules were laid down and bye-laws framed, and salaried officers appointed in due form; and when the period arrived when the Government nominees were to give place to members chosen by the electors, there was, in the first instance, no difficulty whatsoever in finding persons both ready and willing to undertake the charge. But when the time came when the machine thus prepared and framed should set to work, to perform its real and ultimate functions, it was found totally incompetent to do so.

I cannot attribute this result to any indisposition to work, or any want of management in the two district councils in question. Although the people generally may have viewed the scheme from the outset with a degree of repugnance and suspicion, as they will every project which threatens taxation, still in the minds of many, both in and out of the councils, there existed a prejudice in its favour, and a sincere desire to see it carried into effect.

The district council of Grant particularly exerted itself to the utmost to do so, but with no other result than that, after four years' existence it has, with all its zeal, effected nothing to the public advantage; and brought embarrassment and ridicule upon all connected with it. Its liabilities, if I recollect right, do not fall much short of 700 *l.*

The district council of Bourke having proceeded with more caution in appointing salaried officers, while the ultimate working of the taxation part of the system lay under reasonable doubt, is less deeply involved, but still sufficiently so to render the position of the gentlemen, who, from their official connexion with it, are in law responsible for its debts, a very unpleasant one.

Meanwhile the executive government finds itself forced, on the one hand, to furnish wholly from the general revenue, with the approval of the Legislative Council, that provision for the maintenance of police and schools within the several districts which it was the express object of the Imperial Act to relieve it of, in part, at least, and on the other, to decline entering upon the performance of other functions which the law provides must be performed by the district council, or to undertake the direction, and meet the expense of works of internal improvement, however called for, which under the same law must be effected by the council, and at the cost of the community.

It would seem from the correspondence upon this subject, that while the Governor finds it impossible to reconcile the law and the actual circumstances of the colony, he is neither in a position to advise nor assist; that he not only cannot assist the council by coming forward to extricate them by entirely setting aside the law, or by reconciling the opposing interests of the Crown, and the district council within the counties, sufficiently to enable them to extricate themselves, but that he has the ungracious task committed to him, in the event

Encl. 1, in No. 2. event of the non-election of members to fill up vacancies, of forcing gentlemen who may be considered properly qualified to enter the council, and become, whether they will or no, participants in the embarrassment and discredit that beset the institution.

The plain fact appears to be, that though you may make an institution suit the condition of a colony, you cannot force a colony to suit a given institution; and that the system of district councils was neither properly devised nor suited to the present state and circumstances of the Port Phillip district.

The population is not sufficiently large. With the exception of Melbourne, it is not for the present found sufficiently concentrated, or equally distributed over the surface; our acquaintance with the physical details of the country even is too slight, the value of property too fluctuating, and too undetermined; the distinction between points of general and local interests not sufficiently recognised. Where every thing has to be done, the character and relative value of different public improvements, and the order in which they ought to be undertaken, are points not easily decided. The sold and the unsold Crown lands (the latter still forming the great bulk of the areas nominally under the jurisdiction of the councils) are found to interlock on every side; and wherever this is the case it will be difficult to hit upon a mode of reconciling the interests of the public with the rights of the Crown. And, lastly, the country does not possess, for the present, the class of men which, in older countries and communities, may be found possessing both the ability, the leisure, and the will to make the public business their own. The Port Phillip district, however advanced, is in this respect young yet.

The facts I have stated, however briefly, descriptive of the practical working of the system in the district, no one can dispute; and I believe that the opinion I have given of its inapplicability to the present circumstances of the community which it was intended to benefit and advance in prosperity, is very generally that of the sober and practically-minded inhabitants.

I trust that this portion of the Imperial Act, if no other, will be repealed, and that the power will be left to the executive and legislative authorities of the colony to introduce, as the times and circumstances of the colony permit or render advisable, such measures of local self-government as may be clearly applicable to it, and practicable in execution.

I would further hope that the present district councils will be placed in a position to terminate their duties by paying the just claims preferred against them.

28 September 1846. (signed) *C. J. La Trobe.*

Encl. 2, in No. 2.

Enclosure 2, in No. 2.

District Councils of New South Wales.

In conformity with the desire of his Excellency the Governor, I have the honour to subjoin some observations on the practical working of that portion of the Constitutional Act of the colony, 5 & 6 Vict. c. 76, which relates to the establishment of district councils.

2. Soon after the Act in question came into force (namely in 1843), the late Governor, Sir George Gipps, proceeded to exercise the power thereby vested in him, of issuing charters for the establishment of district councils in the whole of the 19 counties (and the reputed county of Macquarie), within the limits of location; and also in the reputed counties of Bourke and Grant, in the district of Port Phillip.

3. As a general rule, the boundaries of their jurisdiction were chosen not from those of the counties, but of the several police districts, as being more suited to the convenience of the inhabitants; and in a few instances, where the population was scattered, and few in number, two police districts were for this purpose thrown into one.

4. The whole number of districts for which charters were issued was 28, namely:—

1. Maitland.
2. Windsor.
3. Goulburn.
4. Yass.
5. Patrick's Plains.
6. Scone and Munurunde.
7. Macquarie.
8. Hartley.
9. Bathurst and Carcon.
10. Penrith.
11. Berrima.
12. Parramatta.
13. Sydney.
14. Illawarra.
15. Braidwood and Broulee.
16. Queanbeyan.
17. Merton and Muswellbrook.
18. Campbelltown, Camden, and Narellau and Pictou.
19. Paterson.
20. Raymond Terrace and Dungoy.
21. Bourke (Port Phillip).
22. Grant (Port Phillip).
23. Liverpool.
24. Wollombi and Macdonald.
25. Brisbane Water.
26. Mudgee and Wellington.
27. Cassilis, and
28. New Castle.

5. The district of Campbelltown, Camden, and Narellau, and Pictou (originally com- 7 Vict., No. 15. prising three police districts) was subsequently divided, by Act of Council, into two districts, under

under the respective denominations of Campbelltown and Appin, and Camden and Narellau, and Pictou, thus making the entire number of district councils 29. Encl. 2, in No. 2.

6. To each of these a warden was appointed, and the councillors were selected from the most influential and respectable persons resident in each district.

7. The form of charter was carefully drawn up, and before any of them were issued, was submitted for the approval and revision of the late Solicitor-general, now Mr. Justice a'Beckett, resident judge at Port Phillip. Copy enclosed.

8. Soon after the issue of the charters, numerous petitions were adopted on the subject of the powers granted to these bodies. During the session of 1843, no less than 15 were presented to the Legislative Council, by far the greater number of which prayed either a suspension of the functions of district councils until better times, or the total abrogation of the clauses of the constitutional Act having reference to their establishment.

9. On the 10th October 1843 an address to the Governor was adopted by the Legislative Council, communicating a resolution to the effect, "that in the present state of the colony it is highly inexpedient if not impossible to cast any portion of the police expenditure on the country districts; that this expenditure, therefore, for the year 1844 should be defrayed as hitherto out of the general revenue;" and "earnestly assuring his Excellency that the pressure of the times enforced the above resolution on the Council;" and "praying that his Excellency would therefore take such measures as might be requisite for giving effect to the same without injury to the public service." To this address the Governor replied by message, on the 12th October, stating in substance that for the reasons assigned by the Council, he was willing to share with them the responsibility of postponing for a year the requirements of the 47th clause of the Act of Parliament, and inviting the Council therefore to appropriate out of the general revenue a sum sufficient to defray the expense of an efficient police in the rural districts, without calling on these districts in the year 1844 for the contributions which, under the Act of Parliament, ought to be required from them. The estimates for the whole of the police and school expenditure were accordingly voted for the service of 1844 out of the general revenue. Copy enclosed. (A.) Copy enclosed. (B.)

10. Considerable difficulty having been experienced in finding persons to serve as district councillors who were possessed of the requisite qualifications according to the provisions of the Imperial Act, a Bill was introduced into the Legislative Council by the Government on the 22d November 1843, reducing the qualification from a freehold estate of the value of 2,000 *l.* on the whole, or 100 *l.* per annum, to a real or personal estate of 500 *l.* on the whole, or the being rated for the purposes of the district council on property of the annual value of 50 *l.* This Bill having been read a first time, it was, upon a division of 11 to 5, ordered to be read a second time on Thursday the 7th December, but having been again postponed to Friday the 8th of the same month, it was ultimately thrown out by a motion for the previous question, in which there was a majority of 8 to 5 against the same. Copy enclosed. (C.)

11. It having been found impracticable without the aid of the Legislature to give proper effect to the powers, &c. granted to the district councils by the charters under the Imperial Act, a Bill was introduced into the Legislative Council by the Government, in the session of 1844, intituled, "A Bill to make further provision respecting the constitution of District Councils in the Colony of New South Wales." On the 25th of July 1844, on the motion that this Bill be printed and read a second time on Thursday, August 1, it was moved as an amendment, "that the Bill be read a second time that day six months." A further amendment was moved in the debate which ensued thereon, to the effect "that in the opinion of this Council the district councils are totally unsuited to the circumstances of the colony, the country districts being unable to meet the additional taxation which would necessarily be required in carrying out the various objects contemplated by their institution; and the cost of the machinery requisite to bring them into operation being of itself an obstacle fatal to their success; and that therefore the second reading of the Bill be postponed to that day six months." Upon a division the latter amendment was carried by a majority of 14 to 7, only one elective member voting in the minority. Copy enclosed. (D.)

12. During the same session it appears that no less than 13 petitions were presented to the Council, having reference to district councils, some of them objecting to the power of taxation granted to these bodies, and others praying for some alteration, either in the boundaries of the districts or in the constitution of the councils.

13. In the course of the debate, which took place on the amendment of the 25th July 1844, the principal objections urged against the district councils were, that the districts would be unable to meet the demands which would in consequence be made upon them, especially those of police and gaols; that the expense of the machinery alone was a serious objection, and that there was no sufficient population in the country districts to enable the inhabitants to manage their local affairs.

14. On the same day a Bill, which had been introduced into the Council by the Government, on the 18th of the same month, intituled, "A Bill to settle the proportions in which Money shall be raised in each District in the Colony of New South Wales, by assessments, for the purpose of defraying half the expense of maintaining a Police Force," was also thrown out by a majority of 11 to 4, the minority consisting entirely of non-elective members. Copy enclosed. (E.)

Encl. 2, in No. 2.

15. It seemed, indeed, to be the fixed determination of the Council to lend no assistance to the Government in bringing into successful operation this part of the constitution of the colony. The result has been, that as a general proposition, it has remained, as regards the peculiar functions delegated to the district councils, wholly inoperative.

Copy enclosed. (F.)

16. On the 9th August 1844, the Council voted an address to the Governor, transmitting to his Excellency a copy of the above resolution, and stating "that it had been passed after a full consideration of the numerous petitions that had been presented to the House, and under a full persuasion that the district councils, as at present constituted, could not be carried out without much hardship and oppression." The Council also begged to remind his Excellency that they were prevented by the Act of the Imperial Parliament 5 & 6 Vict. c. 76, from amending the constitution of the district councils in the most important points prayed for, particularly in regard to the police clauses which the Council and the colonists generally considered the most obnoxious. The Council further requested his Excellency to make such a representation to Her Majesty's Government as would procure a repeal of those clauses of the Imperial Act which relate to district councils, and that the incorporation of towns and districts should be left to the Governor and Legislative Council of the colony. The Council concluded by requesting, "that until the Governor received instructions from Her Majesty's Government, he would place on the estimates of expenditure such sums as his Excellency might think necessary to make provision for such objects as it was intended should be provided for by the district councils, had they been brought into operation." To this address the Governor replied by message on the 20th August 1844, to the effect, "that the Council having rejected the Bills which he caused to be presented to them, for the purpose of carrying into effect the enactments of Parliament in regard to the police of the colony, he would accept such sums as the Council might place at his disposal for the maintenance of the police force, during the year 1845, though he must disclaim any share in the responsibility which this infraction of the constitution might involve."

Copy enclosed. (G.)

17. The estimates for the whole expenditure for police and schools during the year 1845 were accordingly again voted from the general revenue.

Copy enclosed. (H.)

18. In the session of 1845 an address was voted by the Council to the Governor, on the 24th September of that year, communicating the following resolution, namely, "That as no answer had been received by the Council to the address which was voted on the 9th August 1844, in reference to district councils, his Excellency the Governor be requested to recommend to the Council, that the expense of the police and schools of the colony during the year 1846 be defrayed on the same principle as was adopted for the current year." To this address the Governor replied by message, on the 30th September 1845, acceding to the proposal of the Council. The necessary provision was accordingly made in the Appropriation Act for these services.

Copy enclosed. (I.)

19. During the session of 1845 there appears to have been only one petition presented to the Council on the subject of district councils, being that from the electors and ratepayers in the district of Grant, Port Phillip, praying, "that measures should be adopted for suspending the operations of the district council of Grant, and to provide for the liquidation of the expenses already incurred." The absence of other petitions may be accounted for from the fact that, with certain exceptions, which will be noticed in the sequel, the functions of the several district councils throughout the colony had fallen into complete abeyance. The petition referred to arose apparently from a contemplated collection of the assessment rates by the district council of Grant.

20. In the debates which took place in Council 1845, the same arguments were advanced against the district councils as in the previous session, and it was further urged, that it was a subject which should properly be left to the local legislature, who, from a superior knowledge of the circumstances of the colony, would be able to devise a system better suited to the wants and the wishes of the community, and one which at the same time would be acceptable to Her Majesty's Government; that the clauses of the Imperial Act relative to the enforcement of the assessment for police purposes were peculiarly obnoxious to the colonists generally; that, from the great disproportion of the alienated to the unalienated lands (averaging one acre of the former to six of the latter), any system of taxation for the purpose of roads would bear peculiarly hard upon the landed proprietors, who would thus be compelled to pay for such roads as passed through the Crown lands, by which their value would be proportionally enhanced, at the expense of those who had paid for their lands, without, however, any contribution being made for the purpose from the public funds; that the system had never been attempted in the counties of England, and if unsuited to them, it was doubly so to the thinly peopled pastures of Australia; that, although there was a power to make an assessment under the Act, there was none to levy it when made, and there was a fixed determination, by every means in the power of the Council, by raising substantial, as well as technical objections, to prevent the successful working of the bodies.

Statement enclosed, (K.)

21. In the session of 1846 the necessary sums were placed on the estimates for the support of police and schools, without waiting for any application to this effect from the Legislative Council, a course which it will, it is conceived, be necessary to continue until the final decision on the question be received from Her Majesty's Government.

22. As already stated, the whole of the district councils throughout the colony, with the exception hereafter noticed, having been in a state of abeyance, it does not appear that any proceeding in reference to them took place in the Legislative Council during that session.

23. Such

23. Such is a brief account of the legislative proceedings on the subject of these institutions, since their first establishment to the present time. Encl. 2, in No. 2.

24. It may not be altogether irrelevant now to inquire how far the establishment of municipal institutions in the country districts has been favourably received by the inhabitants. If we may judge by the result of the elections in the different districts, the possession of this privilege is looked upon, at least in a great many of them, with much indifference, an indifference which appears to have annually increased since their first establishment. The following summary, showing the number of members elected, and nominated by the Governor in default of election, to fill the annual vacancies of one-third, under the charter, will sufficiently illustrate the truth of this conclusion: viz.—

1844	elected	67
	nominated	0 = 67
1845	elected	51
	nominated	14 = 65
1846	elected	38
	nominated	32 = 70

Thus, during the three years in question, there were 156 persons elected, and 46 nominated by the Governor. It is also undoubted that of those elected, a considerable proportion did not consist of the persons most eligible for so important a trust, a great disinclination being understood to prevail amongst many highly respectable persons to accept the office.

25. It appears that (with the solitary exception of the sum of 170 *l.* raised by the district council of Grant) in none of the districts was any revenue whatever raised by assessment. In several debts have been incurred in payment of the salaries of the officers appointed by the Council; but the refusal of the Legislative Council to grant the additional facilities necessary to enable these bodies to levy the assessments when made, and the strong opinions expressed in debate of the risk which would attend their enforcement, seem to have entirely paralysed the endeavours of the several district councils to exercise their legitimate powers.

26. Almost the only exception to the total inactivity which has characterised these bodies is to be found in the district council of Parramatta; but even here the necessary expenditure is not met by assessment in the manner contemplated in the Imperial Act, but by the sums received for tolls on the public roads in the district, which are levied and collected by the Government, and then handed over to the district council, to be expended exclusively in the repair of the roads. There is every reason to believe that the sums so granted have been spent for the purpose in a very judicious and economical manner. The same arrangement was proposed to the district council of Windsor, but was not acted on. It should also be mentioned here that the district councils of Sydney and of Grant for some time evinced considerable activity, but for the reasons already alluded to, they also are now in abeyance.

27. It has been clearly shown that the Legislative Council would lend no assistance to the Executive Government in giving effect to this part of the constitution of the colony; and notwithstanding the power granted to the Governor and Executive Council under the 48th clause of the Constitutional Act, as amended by the 5th section of the 7th & 8th Vict. c. 74, to declare the property on which an assessment might be levied for purposes of police, this power must remain wholly inoperative unless the Legislative Council shall previously declare by a Bill the proportions in which each district shall contribute the half of the expense of police, to be raised by assessments by the district councils. It has not, therefore, been possible, even if it had been expedient, for the Governor and Executive Council to exercise this power in the absence of a Bill of the nature in question.

28. From the foregoing statement it will be gathered,

1st. That district councils have, from the causes mentioned, entirely failed to answer the object contemplated in their establishment.

2d. That there is at present only one in active operation, and this one is sustained only by contributions from the Government, and not by assessment raised under the powers granted to it under the Act.

3d. That these institutions, in their present form, are not adapted to the state of society in this colony.

4th. That so far as the Legislative Council or the public at large is concerned, they are not regarded in any favourable light.

29. Such are the general conclusions at which I am forced to arrive, from a full consideration of all the circumstances I have detailed. I am by no means prepared to say, however, that, with considerable modification, they may not be adapted to the peculiar circumstances of the colony; but this can only be done by leaving all legislation on the subject to the local legislature. No doubt, as has been experienced in other colonies, there may be an indisposition on the part of the Supreme Legislature to grant to any other bodies concurrent powers of taxation; but for mere local purposes it is scarcely to be apprehended that this would be refused, especially when it would have the effect of relieving the general treasury from heavy burdens, which it can ill afford to bear.

30. I am aware of the convenience of ascertaining the real wants of any particular district of an adequate police force, from the willingness of the inhabitants to contribute a portion

Encl. 2, in No. 2.

tion of the expense; but nevertheless I am doubtful, in the present scattered state of the population, whether the whole expense of the police should not continue to be borne on the general revenue; more especially so long as it is expedient that the management of it should remain in the hands of the Executive Government.

31. With respect to schools, there appears to me to be great objections to make them wholly dependent upon the support that the district councils may be willing to grant to them. It is the peculiar province of the Government and the Legislature to watch over the education of the people; and it may therefore be scarcely safe that it should be left contingent on the narrow views of economy which may influence merely local bodies in raising the necessary funds for the purpose. There is this great objection also to leave this important service to be provided for by the several district councils, namely, that a different system of education may be introduced into each, instead of one general and comprehensive plan, suited to the colony at large. No doubt this might be regulated by an Act of Council applicable to the whole; but there would still be this objection, that if unpalatable to any particular district, the council thereof might frustrate the intentions of the general legislature by refusing to raise for the purpose the necessary funds.

32. I would propose also that the great lines of thoroughfares throughout the colony should be entirely withdrawn from the control of the district councils. These must be considered of general, not merely of local, interest. On the other hand, parish roads and bye roads, leading from one part of a district to another, and in which the public at large have no concern, should be left to the management of the district councils.

There are many other local works and buildings, such as are contemplated by the present constitutional Act, which should also be confided to them.

(signed) *E. Deas Thomson.*

Colonial Secretary's Office, Sydney,
27 March 1847.

CHARTER ESTABLISHING THE DISTRICT COUNCIL OF

VICTORIA, by the Grace of God of the United Kingdom of *Great Britain* and *Ireland* Queen, Defender of the Faith, and so forth;

To all to whom these Presents shall come, greeting:

Preamble. 5 & 6 Vict. cap. LXXVI, ss. 41 to 44 recited.

WHEREAS, by an Act of our Imperial Parliament, passed in the fifth and sixth year of our reign, intituled "An Act for the Government of New South Wales and Van Diemen's Land," after reciting the expediency of making provision for the local government of the different parts of the said colony of New South Wales, it was, amongst other things, enacted, that it should be lawful for the Governor of the said colony, by letters patent, under the Great Seal of the said colony of New South Wales, to incorporate the inhabitants of every county within the said colony, or of such parts of counties or other divisions as to him should seem fit, to form districts for the purposes of the said recited Act, and by such several letters patent to establish a council in every such district for the local government thereof, subject to the following provisions as therein contained; (that is to say,)

1. That every such district council shall be elective, after the first nomination thereof, as hereinafter mentioned, the elections being made in the several districts or other fit divisions, to be defined by the charter, within the district, so that, until further provision be made in this behalf by the Governor and Legislative Council of the colony of New South Wales, if the population in such district, according to the last census taken before the charter, be less than 7,000 souls, the number of councillors for such district shall not be more than nine; if the population be 7,000 and less than 10,000, the number of councillors shall not be more than 12; if the population be 10,000 and less than 20,000, the number of councillors shall not be more than 15; if the population be 20,000 and upward, the number of councillors shall not be more than 21:

2. That until further provision be made in this behalf by the Governor and Legislative Council of the colony of New South Wales, the district councillors shall be persons qualified to be elected members of the Legislative Council, and shall be elected to such office by the persons qualified to vote in the election of members of the Legislative Council within the district in which the election is made:

3. That no district councillor shall hold any lucrative office or appointment under such district council, or enter into, or be concerned or interested in any contract, or any pecuniary dealings with such district council, under a penalty or penalties to be fixed in such letters patent of incorporation:

4. That no district councillor shall continue in office for more than three years, unless re-elected:

5. That the district council shall be presided over by a warden, to be appointed and be removable by Her Majesty, or by the Governor in the name of Her Majesty:

6. That

6. That a district surveyor, who shall have passed an examination before a competent tribunal approved by the Governor, shall be appointed in each district for superintending the construction of roads and other public works undertaken by authority of the district council; and that the district surveyor, and all other officers needed for the exercise of the powers of the district council, shall be appointed and be removable by the district council, subject to the approval of the Governor: Encl. 2, in No. 2.

7. That accounts in detail of all monies expended in every year, by or under the authority of the district councils, be laid before the Governor, and otherwise published in such manner as may be directed by the charter, or provided by any law of the Governor and Legislative Council of the colony of New South Wales.

And whereas it was by the said Act further enacted, that it should be lawful for each of the said councils in the said districts respectively to make orders and bye-laws for all or any of the following purposes; (that is to say,)

For making, maintaining, or improving any new or existing road, street, bridge, or other convenient communication and means of passage through the district, or for stopping up, altering or diverting any road, street, or communication within the limits of the district:

For building, repairing, and furnishing public buildings:

For the purchase of such real and personal property situate within the district as shall be required, in the opinion of the council, for the use of the inhabitants thereof:

For the sale of such part of the real and personal property belonging to the district as shall have ceased, in the opinion of the council, to be useful to the inhabitants:

For the management of all property belonging to the district:

For providing the means of defraying such expenses of, or connected with, the administration of justice and police within the district as are or shall be hereafter by law directed to be defrayed by the district, or out of the district funds:

For providing for the establishment and support of schools:

For raising, assessing, levying, and appropriating such monies as shall be required for the purpose of carrying into effect, all or any of the objects for which the said district councils respectively shall be empowered to make orders and bye-laws, which monies shall be raised, either by means of tolls to be paid in respect of any public work within the district, or by means of rates and assessments to be assessed and levied on real or personal property, or both, within the district, or in respect of such property, upon the owners and occupiers thereof:

For the collecting and accounting for all tolls, rates, and assessments imposed or raised under the authority of any such council, and of the revenues belonging to the district:

For imposing and determining reasonable penalties to be recovered from such persons as, having been elected to offices, as hereinbefore provided, should refuse to serve the same, or refuse or neglect to take and subscribe such oaths of office as shall by law be required to be taken by such officers respectively:

For determining the amount and time of payment of all salaries or other remuneration of district officers to be appointed under the authority of this Act:

For providing for any other matters which shall be specially subjected to the direction and control of the said district councils respectively by any law of the governor and Legislative Council of the colony.

Provided always, that no such bye-law should impose any punishment of imprisonment, or any penalty exceeding 10*l.*: provided also, that it should not be lawful for any such district council as aforesaid to levy any rate or assessment whatever on any lands or tenements, goods or chattels, real or personal estates, belonging to Her Majesty, her heirs and successors: And whereas it was by the said recited Act further enacted, that a copy of every bye-law made by any district council under the authority of this Act should be transmitted by the warden of the district, within 14 days after the making thereof, to the Governor of the colony of New South Wales, and it should be lawful for the said Governor, with the advice of his Executive Council, at any time within two calendar months after the receipt of such copy, to disallow such bye-law, and such disallowance should without delay be signified to the warden of the district where such bye-law should have been passed, and thenceforward such bye-law should be void and of no effect; and no such bye-law should have effect until the expiration of the said period of two calendar months, unless the said Governor should have given assent thereto before the expiration of that period: And whereas it was by the said Act further enacted, that, subject to the provisions therein contained, it should be lawful for the said Governor to specify in writing, and by the said several charters of incorporation, the metes and bounds of the said several districts, and the number of councillors which should be for every district, and the time and manner of their election, and to fix the qualification of the councillors, and to nominate among the persons qualified to vote in the election of councillors, the councillors, being duly qualified, who should form the first council in every such district, and to appoint the order and manner in which they should go out of office, and to fix penalties for qualified persons refusing to hold office in the council, and to make all other necessary provisions for establishing such district councils for defining their powers and enabling them to exercise their functions: Now, know ye, that We, upon full consideration of the premises, and of Our special grace, certain knowledge, and mere motion, have, in pursuance of the said Act of Parliament, thought fit to incorporate, and do by these presents accordingly for Us, Our heirs and successors, incorporate the inhabitants of the district Inhabitants incorporated.

District council established.

district of to be and form a district for the purposes of the said Act: and we do further direct, ordain, and appoint, that there shall be established within the said district a council for the local government thereof, to consist of the members appointed or chosen in the manner hereinbefore declared.

Boundaries.

II. And We do further direct and ordain, that the said district shall be deemed to include all that part of the territory of New South Wales situate within the following metes and bounds (that is to say),

Seal of district council.

III. And We do hereby give and grant to the said council power to have a common seal, and such seal from time to time to break, change, and alter, as to the said council may seem fit or expedient.

Appointment of warden.

IV. And We do further will and ordain, that shall be the warden of the said district during Our pleasure, or the pleasure of the Governor of Our said territory for the time being.

Number of councillors.

V. And We do hereby further ordain and declare, that the number of councillors for the said district shall be

Nominating first councillors.

VI. And We do further nominate and appoint to be the coucillors who shall be and form the first council for the said district.

Election of councillors.

VII. And We do hereby further ordain and appoint, that in every year, at the times and in the manner hereinafter mentioned, there shall be elected the number hereinafter mentioned of fit and proper persons, to be councillors of the said district, to supply the vacancies which shall arise by the councillors going out of office, in the manner hereinafter mentioned.

Nomination of councillors at elections.

VIII. And We do further will and ordain, that the first Tuesday in the month of May, in every year, shall be the day of nomination of councillors to supply the vacancies which shall arise from the councillors going out of office, in the manner hereinafter mentioned, and that the said warden shall preside at a meeting to be holden at noon, at and shall declare the purpose for which such meeting is held; and if there be at such meeting no more candidates proposed than the number of councillors to be elected, the said warden shall declare such candidates to be duly elected; and that in the event of there being more candidates than the number to be elected, the said warden shall call for a show of hands separately in favour of each candidate, and after such show of hands shall declare the persons on whom the election has fallen, unless a poll be demanded by some or one of the candidates, or by not less than six electors on their or his behalf; and on such demand being made for a poll, the polling shall commence at the different polling places, as nearly as may be at nine o'clock of the forenoon on the day next but two after the day of nomination.

Order in which councillors to go out of office.

IX. And We do further will and ordain, that during the first three years one third part of the said district councillors shall go out of office, on the first day of May, in each such year, in the inverse order in which their names are hereinbefore mentioned; and that in every subsequent year one third part of the said councillors shall go out of office on the said first day of May, in the following order; that is to say, the councillors to go out of office shall be those who have been longest in office without re-election; provided, however, that the councillors, whether nominated or elected, so going out of office may be re-elected at the next election, if still duly qualified; provided also, that if any question arise as to which councillor shall be the one to go out of office, of any two or more who may have been elected on the same day, the councillor to go out of office shall be the one who was elected by the smallest number of votes, and that in the event of the number of votes having been equal, the warden shall decide.

Booths to be erected for taking the poll.

X. And We do further will and ordain, that at every election in such district, the warden, if it shall appear to him expedient for taking the poll at such election, may cause booths to be erected, or rooms to be hired and used as booths in one place, or in several places at each polling place as occasion may require, and the same shall be so divided into compartments as to the said warden shall seem most convenient; and the said warden shall appoint a clerk to take the poll at each compartment, and shall, before the day of election, if there be a contest, cause to be furnished for each booth or polling place a copy of the electoral list of the district, and shall, under his hand, certify such copy to be true.

Electoral list to be furnished to each booth.

Polling places.

XI. And We do further will and ordain, that every place within the said district at which Courts of Petty Sessions have been or shall be appointed to be holden, provided that such courts shall continue to be so holden thereat, shall be a polling place for taking the poll at the election of councillors for the said district.

Election at polling places to be before warden or his deputy.

XII. And We do further will and ordain, that the election of councillors at each polling place within the said district shall be held before the warden (for the time being of the same) or his deputy; and the voting at every such election shall commence, as nearly as may be, at nine o'clock in the forenoon, and shall finally close at four o'clock in the afternoon

noon of the same day, and shall be conducted in manner following; that is to say, every inhabitant entitled to vote in the election of councillors may vote for any number of persons, not exceeding the number of councillors then to be chosen, by delivering to the said warden, or his deputy, a voting paper, containing the christian names and surnames of the persons for whom he votes, and their respective places of abode and descriptions, such paper being previously signed with the name of the elector voting, and with the name of the district or place in which the property in respect of which he is qualified to vote is situated. Manner of voting.

XIII. And We do further will and ordain, that the warden of the said district shall preside at , being the chief polling place of the same, and that he may appoint a deputy to act for him and take the poll at each of the other polling places; provided that such deputy be appointed by a writing under the hand of the said warden, and that such writing be posted up at the court-house, or in any other public manner, where such polling place may be situate, at least seven days before the day of election: provided also, that if the warden of the said district shall be prevented, by illness or other adequate cause, from presiding at the said election, the senior councillor of the district, as hereinbefore provided, shall preside in his place. Warden to preside at chief polling place and to appoint deputies for the others.

XIV. And We do further will and ordain, that before any candidate for the office of councillor shall be capable of being elected, he shall, if required by any elector or the warden, make the following declaration, or that some person, on his behalf, shall produce a written declaration to the same effect, duly signed and executed before a magistrate by such candidate, not more than 14 days before the day of election:—"I, *A. B.*, do declare and testify that I am duly seised, at law or in equity, of an estate of freehold, for my own use and benefit, in lands or tenements in the colony of New South Wales, of the yearly value of 100 *l.* sterling money (or of the value of 2,000 *l.* sterling money, as the case may be), above all charges and incumbrances affecting the same; and that I have not collusively or colourably obtained a title to, or become possessed of the said lands and tenements, or any part thereof, for the purpose of qualifying or enabling me to be returned a member of the council of the district of ." Declaration to be made by candidate if required.

XV. And We do further will and ordain, that in any mattter not provided for by this charter, or by the Act of Parliament made in that behalf, the elections shall be conducted in the same manner as the elections of members to serve in the Legislative Council of the said colony are conducted under the law now or hereafter existing for the regulation of such elections. Conduct of elections in other respects as in elections of members for Legislative Council.

XVI. And We do further ordain and declare, that the present charter is only supplementary to the said recited Act, and that nothing herein contained shall be held or construed in any manner repugnant to the said Act. Charter supplementary only to the Act of Parliament.

XVII. And We do further will and ordain, that if any extraordinary vacancy shall be occasioned in the office of councillor, the electors entitled to vote shall, upon a day to be fixed by the warden, such day not to be later than 30 days from the occurrence of such vacancy, elect from the persons duly qualified to be councillors another person to supply such vacancy; and such election shall be held, and the voting and other proceedings, in case of a contest, shall be conducted in the same manner, and subject to the same provisions, as are hereinbefore directed with respect to the election of councillors as aforesaid; and every person so elected (or in the event of there being no election, every person nominated by the Governor to fill the said vacancy or vacancies,) shall hold office until the time at which the person in room of whom he was chosen would have regularly gone out of office, whether such person be one of the original councillors named in this charter, or otherwise; and he shall then go out of office, but shall be capable of immediate re-election, if then duly qualified: provided, that after the full number of councillors to be regularly elected, or in default thereof nominated or appointed, in every year, shall have been so elected or nominated, no new election or nomination of councillors shall be made by reason of such extraordinary vacancy, unless the number of the whole council (warden included) remaining after such vacancy shall be less than five, in which case the number of councillors for the district shall be completed. Extraordinary vacancies of councillors how filled.

XVIII. And whereas, by the said recited Act, it was further enacted, that no district councillor should hold any lucrative office or appointment under such district council, or enter into, or be concerned or interested in any contract, or any pecuniary dealings with such district council, under a penalty or penalties to be fixed in the letters patent of incorporation: now, We further will and ordain, that if any district councillor shall offend in the premises, he shall, for every such offence, pay a fine of 50 *l.* to the treasurer of the district council for the use of the district, or in default thereof, his seat in the council shall, after the lapse of 10 days, be declared to be, and be vacant. Penalty on councillors holding lucrative office or contracts under the council.

XIX. And We do further will and ordain, that if any person, being duly qualified, shall refuse to take upon himself the office of a councillor, after having been duly elected or nominated to such office, every such person shall forfeit and pay the sum of 50 *l.*, the same to be recovered by action of debt in the supreme or any circuit court of New South Wales, on the information of the Attorney-general of the colony, or of any qualified elector Penalty on councillor refusing to act.

Encl. 2, in No. 2.

of the district; the same penalty to be paid, one moiety to the treasurer of the district, for the public uses thereof, and the other moiety to the informer.

Questions to be decided by majority.

XX. And We do further will and declare, that all questions, matters, and things, which shall be discussed or considered at any meeting of the said council, shall be decided and determined by the majority in number of the members present, and the warden shall be entitled to vote thereat, and in case of an equality of votes, shall have an additional or casting vote: provided, however, that the said council shall in no case be competent to proceed to business unless there be at least three members present.

General meetings may be adjourned.

XXI. And We do further will and declare, that it shall be lawful for the said council to adjourn any such general or special meeting to some future day, and from time to time, as may be necessary for disposing of the business in hand.

Special general meetings may be convened by advertisement.

XXII. And We do further will and declare, that the warden for the time being of the said district shall and may convene special general meetings of the said council, either by his own desire, or at the request in writing of any three councillors of the said district, provided that public notice thereof, and of the purpose for which such meeting shall be so convened, be given at least 10 days previously, in the "New South Wales Government Gazette;" and in every case a summons to attend such special meeting, signed by the warden, shall be left at the usual place of abode of every member of Council, or sent to him by post three clear days at least before such meeting; and no business shall be transacted at such meeting other than is specified in such notice.

General meetings to be held quarterly.

XXIII. And We do further will and ordain, that the said council shall on the first Tuesday in the months of March, June, September, and December, in each and every year, hold a general meeting of the members of the said council, for the dispatch of business, in conformity with the provisions of the said Act, at such place within the said district as the said council may determine.

Books to be kept at a fixed office.

XXIV. And We do further will and direct, that all bye-laws, rules, and regulations, orders, and proceedings of the said council shall be entered in a book or books to be kept for that purpose, and shall be signed by the warden for the time being, and that such book or books shall be carefully preserved, and kept at the office of the said council.

Appointment of committees.

XXV. And We do further will and ordain, that the said council shall have power to appoint one or more committee or committees of their number for the dispatch of such business as may be specially referred to any such committee, but that no such committee shall be competent to proceed to business unless three members, at the least, of such committee

Quorum and chairman.

be present during the whole of the meeting thereof, nor until such committee shall have made choice of a chairman to preside at such meeting; and all questions, matters, and things which shall be discussed or considered at any meeting of such committee shall be determined by the majority in number of the members present, and the chairman, in case of an equality of votes, shall have an additional or casting vote: provided always, that the acts of every committee shall be submitted to the council for their approval or otherwise as they may determine.

District officers to give security.

XXVI. And We do further will and ordain, that the said council shall require the treasurer and such other officers of the council as they may think necessary, to enter into bond, with two or more sufficient sureties, for the safe keeping of the monies and other property belonging to the said council which may be entrusted to their care, for such amount in every case as the said council may determine, before they shall commence the duties of their respective offices; and such bonds shall be safely kept by the said council to be used in case of need.

Treasurer to pay no money, except by order of council.

XXVII. And We do further will and ordain, that the said treasurer shall pay no money on account of the said council except on the order in writing of the warden, or of at least three members of the council, or on the order of the Governor of the colony, pursuant to the enactments contained in the before recited Act, passed in the 5th and 6th year of Our reign, intituled, "An Act for the Government of New South Wales and Van Diemen's Land."

Treasurer to lay accounts before general meeting.

XXVIII. And We do hereby further will and ordain, that the treasurer of the said council shall, at the general meeting of the same, on the first Tuesday in the month of March in each year, lay before the said council an account, in writing, of all the sums of money received, paid, laid out, and expended by him as such treasurer, such account being made out from the 1st day of January to the 31st day of December, both inclusive,

Committee to audit accounts.

in the year next preceding; and that the said council shall thereupon appoint a committee for auditing the said accounts, before which committee the said treasurer shall produce all his books, papers, receipts, and vouchers relating to the said account; and

Copy of audited accounts to be transmitted to the Governor; and published in Government Gazette.

the said committee shall report to a general meeting of the said council, to be specially convened for that purpose, on or before the 1st day of April then next ensuing, upon the said treasurer's account, when the same shall either be approved, or otherwise, as the case may require, and a copy of such audited account, certified by the warden to be a true copy, shall be forthwith transmitted to the said Governor, and the same shall be published in the New South Wales "Government Gazette," for general information.

In

In testimony whereof, We have caused these letters to be made patent, and the seal of Our said colony to be hereunto attached. Encl. 2, in No. 2.

Witness, Our trusty and well-beloved Sir George Gipps, Knight, Our Captain-general and Governor-in-Chief of Our territory of New South Wales and its Dependencies, and Vice-admiral of the same, this

(L. S.) (signed) *George Gipps*, Governor.

By his Excellency's Command.

(signed) *E. Deas Thomson.*

(A.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, 10 Oct. 1843.

4. Police expenditure for the year 1844.—Mr. Windeyer, pursuant to notice, moved the following Address to his Excellency the Governor :—

We, Her Majesty's most dutiful and loyal subjects, the members of the Legislative Council of New South Wales, in Council assembled, beg to lay before your Excellency the following resolution :

"That in the present state of the colony it is highly inexpedient if not impossible to cast any portion of the police expenditure on the country districts; that this expenditure therefore for the year 1844 be defrayed, as hitherto, out of the general revenue."

We further beg to inform your Excellency that the above resolution originated in a committee of the whole Council on the estimates for the year 1844, and was therein unanimously agreed to, as well as afterwards by the full Council, on the 6th instant.

Moved as an amendment that the words "*nemine contradicente*" be substituted for the word "unanimously."

Address adopted as so amended; to be presented by the Colonial Secretary and the Commander of the Forces.

(B.)

4. Police expenditure for the year 1844.—The following message from his Excellency the Governor, received and read :—

Message from his Excellency the Governor to the Legislative Council, replying to an Address from the Council, wherein it was communicated to his Excellency that the Council had resolved that "in the present state of the colony it is highly inexpedient if not impossible to cast any portion of the police expenditure on the country districts; that this expenditure therefore for the year 1844 be defrayed, as hitherto, out of the general revenue."

Gentlemen,

By the 47th clause of the Act of Parliament for the government of New South Wales (5 & 6 Vict. c. 76), it is enacted, that one-half of the expense of the police establishment of the colony shall be defrayed out of the general revenue, and the other half by assessments on the different districts of the colony, in such proportions as shall be from time to time fixed by the Governor and Legislative Council. According, therefore, to this 47th clause, an Act of the Governor and Council ought to be passed in every year, declaring the amount to be assessed on each district of the colony.

In the estimates now under the consideration of the Council, the sums set down for the maintenance of the police in the country districts, collectively amount to 38,260 *l.*; and in a separate paper which has been printed by order of the Council, the proportions are shown in which it was proposed that the half of this sum, or 19,130 *l.*, should be charged on the districts severally.

The Council has, however, now presented me an address, announcing to me that in the opinion of the Council, "it is highly inexpedient if not impossible, in the present state of the colony, to cast any portion of the police expenditure on the country districts;" and intimating a desire that the whole expenditure for the country districts shall continue, during the year 1844, to be defrayed, as hitherto, out of the general revenue.

The 48th clause of the Act already referred to, appears to have been intended by Parliament to meet a case in which the Legislative Council might fail to comply with the requirements of the preceding or 47th clause; but owing to what may have been an error of the printer, the real object of this clause is scarcely to be collected from the words of it.

I am, however, gentlemen, well aware that you have adopted the resolution communicated to me by your address, with no intention of contravening an Act of Parliament, but solely from a desire to relieve the country districts of the colony from charges which, under existing

Encl. 2, in No. 2. existing circumstances, you think they are unable to bear; and as I cannot but be also of opinion that the district councils could not, so soon after their formation, raise without great difficulty the sums which would be necessary to defray half the police expenses of their respective districts, in addition to the other sums to be raised for the services which, by the Act, they are required to provide for, I am willing to share with the Legislative Council the responsibility of postponing for a year, a compliance with the requirements of the 47th clause of the Act of Parliament; and accordingly I have, gentlemen, to invite you to appropriate out of the general revenue of the colony, either the sum set down in the estimates, or such smaller sum as you may think sufficient, to defray the expenses of an efficient police within the rural districts of the colony, without calling on those districts during the year 1844 for the contributions which, under the Act of Parliament, ought to be required from them.

Government House, 12 October 1843. (signed) *George Gipps.*

Message to be considered in committee to-morrow.

(C.)

7 Victoria, 1843.

A BILL to alter the Qualification required by law for Members of District Councils, in the Colony of New South Wales.

Preamble. Whereas by an Act of the Imperial Parliament, passed in the fifth and sixth year of the reign of Her present Majesty, intituled, "An Act for the Government of New South Wales and Van Diemen's Land," provision was made for the establishment of district councils within the colony of New South Wales; and it was by the said Act provided, "that until further provision be made in this behalf by the Governor and Legislative Council of the colony of New South Wales, the district councillors shall be persons qualified to be elected members of the Legislative Council, and shall be elected unto such office by the persons qualified to vote in the election of members of the Legislative Council within the district in which the election is made;" and whereas it is expedient to make further provision in this behalf: Be it therefore enacted by his Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, that from and after the passing of this Act, so much of the said recited Act of Parliament, as relates to the qualification of members of the said district councils, shall be, and that the same hereby is repealed.

Former qualification of district councillors repealed.

New qualification required. II. And be it enacted, that from and after the passing of this Act, no person not a natural born subject of Her Majesty, and no person not of the full age of 21 years, and no person in holy orders, or being a regular minister of any religious congregation, shall be qualified to be elected or nominated a district councillor; nor any person who shall not be seized or possessed of real or personal estate within the colony of New South Wales, or of a mixed estate, partly real and partly personal, to the amount of , either in his own right, or in that of his wife; or who may not have been rated for the purposes of the district council of which he is elected or nominated a member, upon property of the annual value of 50 *l.*, for 12 months at least prior to the day of his election or nomination.

Members of district councils to take the oath of allegiance, and make a declaration of their qualification. III. And be it enacted, that no person elected or nominated to be a district councillor shall be capable of acting as such, until he shall have taken before the warden of the district, or before some person deputed by the warden to administer the same, the oath of allegiance to Her Majesty, her heirs and successors, and shall have made and subscribed the following declaration:—

"I, *A. B.*, having been elected (or nominated) a councillor for the district of , do hereby declare that I take the said office on myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability; and (in case of the party being qualified by estate) I do hereby declare that I am seized, or possessed, either in my own right, or in that of my wife, of an estate, real or personal, to the amount of over and above what will satisfy my debts; and that I have not fraudulently or collusively obtained the same, in order to qualify me for the office to which I have been elected or nominated."

Declaration to be repeated yearly if required. And every person who shall have made and subscribed such declaration, in respect of estate, shall once in every year, if required in writing so to do, by any five electors of the district, make and subscribe a declaration that he is qualified to the like amount in real or personal estate, or both, as the case may then be.

Penalty for neglecting or refusing to make declaration, or for making it falsely. IV. And be it enacted, that if any person, when duly called on to make such declaration, shall refuse or neglect to make it, he shall after the expiration of 14 days, reckoned from the day on which he is so called on, cease to be a member of the council; and if any person shall make the said declaration falsely, knowing at the time that such declaration is false, he

he shall and may be adjudged, by any competent court, to have been guilty of a misdemeanor, and be punished accordingly. Encl. 2, in No. 2.

V. And be it enacted and declared, that no proceedings of any district council shall be vitiated or invalidated by reason only that a person, or any number of persons, not duly qualified by law, may have acted as a member of, and voted in such council, prior to the passing of this Act. Past proceedings valid notwithstanding unqualified persons may have acted as councillors.

VI. And be it enacted, that at no time after the passing of this Act, shall any proceedings of any district council be held to be vitiated, or invalidated, by reason only that any person, or number of persons, not duly qualified by law, may have taken part in such proceedings, unless such person or persons may have been required to make the declaration hereinbefore required to be made by members of such councils, and shall have refused or neglected to make it. Future proceedings not to be invalid by reason only of unqualified persons having acted as councillors.

(D.)

8 Victoria, 1844.

A BILL to make further provision respecting the Constitution, and to define and extend the Powers of District Councils in the Colony of New South Wales.

Whereas by an Act of the Imperial Parliament, passed in the fifth and sixth year of the reign of Her present Majesty, intituled, "An Act for the Government of New South Wales and Van Diemen's Land," certain provisions were made for the local government of the different parts of the said colony of New South Wales, and in pursuance of the same, his Excellency Sir George Gipps, as Governor of the said colony, hath issued several letters patent, under the great seal of said colony, to form districts, and incorporate the inhabitants of each such district, and establish councils in the same for the local government thereof respectively: Be it enacted, by the Governor and Legislative Council of New South Wales, and by virtue of the authority conveyed to them by the said Act, that the said districts so incorporated shall be capable in law of suing and being sued, and of purchasing and holding land and tenements situate within the limits of such district for the use of the inhabitants of the same, and of making and entering into such contracts and agreements as may be necessary for the exercise of its corporate functions, and that the powers aforesaid shall be exercised by, and through, and in the name of the council of every such district. Preamble. 5 & 6 Vict. c. 76. Incorporated districts may sue and be sued; and purchase and hold lands within the limits of their districts.

II. Provided always, and be it enacted, that it shall not be lawful for any district so incorporated as aforesaid, to exercise any other powers of a corporation except such as are in said letters patent or are hereinafter mentioned, or such as shall be expressly conferred by the Governor and Legislative Council of New South Wales, or such as shall be necessary for the due execution of the powers in said letters patent or herein granted. Incorporated districts to exercise only the powers specially granted to them.

III. And whereas it is expedient to alter the qualification of members who are or shall be elected members of such district councils: Be it enacted, that from and after the passing of this Act, so much of the said recited statute as relates to the qualification of members of the said district council shall, by virtue of the especial authority given by the said statute to the Governor and Council of New South Wales, be and the same is hereby repealed. 5 & 6 Vict. c. 76, as regards qualifications, repealed.

IV. And be it enacted, that from and after the passing of this Act, no person not a natural born subject of Her Majesty, and no person not being of the full age of 21 years, and no person in holy orders, or being a minister of any religious sect or congregation, nor any person accountable for the district revenues, nor any person receiving any pecuniary allowance from the district for his services, nor any person having directly or indirectly by himself or his partners any contract or any share or interest in any contract with or on behalf of the district, shall be qualified to be elected to, or to hold the office of councillor in any such district council, nor any person who shall not be seised or possessed of real or personal estate within the colony of New South Wales, or of a mixed estate partly real and partly personal, to the amount of , either in his own right or that of his wife, or who has not been rated for the purposes of the district council of which he shall be nominated or elected a member, upon property of the annual value of , for twelve months at least prior to the day of his election or nomination. Persons disqualified. Qualification.

V. And be it enacted, that no person elected or nominated to be a district councillor shall be capable of acting as such until he shall have taken before the warden of the district, or before some justice of the peace deputed by the warden to administer the same, the oath of allegiance to Her Majesty, her heirs and successors, and shall have made and subscribed the following declaration:—"I, *A. B.*, having been elected (or nominated) a councillor for the district of , do hereby declare that I take the office of a councillor on myself, and will duly and faithfully fulfil the duties thereof according to the best of my judgment and ability; and (in case of the party being qualified by estate) I do hereby declare that I am seised or possessed, either in my own right, or in that of my wife, of an estate, real or personal, to the amount of over and above what will satisfy my debts, and that I have not fraudulently or collusively obtained the same, in order to qualify me for the office Oath of allegiance and declaration of acceptance of office.

Encl. 2, in No. 2.

to which I have been elected or nominated." And every person who shall have made and subscribed such declaration, in respect of estate, shall once in every year, if required in writing so to do, by any five electors of the district, make and subscribe a declaration before the warden, and at such time and place as the said warden may appoint, that he is qualified to the like amount in real or personal estate, or both, as the case may then be.

Persons refusing to make declaration as to qualification to cease to be members, and pay a fine, except on proof of being disqualified.

VI. And be it enacted, that if any person when duly called on by the warden to make such declaration, shall refuse or neglect to make it, the person so refusing or neglecting shall after the expiration of 14 days, reckoned from the day on which he is so called on, cease to be a member of the council, and shall be liable to pay the fine specified in said letters patent for such refusal, unless he make declaration before the warden that he does not possess the required qualification; and the said office shall thenceforward be deemed to be vacant, and shall be filled up by another election or nomination; and if any person shall make declaration falsely, either that he does or does not possess the required qualification, knowing at the time that such declaration is false, he shall and may be adjudged by any competent court to have been guilty of a misdemeanor, and be punished accordingly.

How seats may become vacant.

VII. And be it enacted, that if any member of any district council shall for one entire year fail to give his attendance in the said council, without the permission of the Governor of the said colony, signified by the said Governor to the warden of the district, or shall take any oath or make any declaration or acknowledgment of allegiance, obedience, or adherence to any foreign prince or power, or shall do, concur in, or adopt any act whereby he may become a subject or citizen of any foreign state or power, or shall become insolvent, or make any assignment of his goods for the benefit of his creditors, or accept any letter of license from his creditors, or become a public defaulter, or be attainted of treason, or be convicted of felony or any infamous crime, or shall become *non compos mentis*, his seat in such council shall thereby become vacant.

Proceedings before the passing of this Act not to be void on account of councillors not being qualified.

VIII. And be it enacted and declared, that no proceedings of any district council shall be held to be vitiated or invalidated by reason only that a person, or any number of persons, not duly qualified by law, may have acted as a member of, and voted in such council prior to the passing of this Act.

No proceedings after the passing of this Act to be invalid on account of councillors not being qualified, unless they may have refused to make the declaration when required to do so.

IX. And be it enacted, that at no time after the passing of this Act shall any proceedings of any district council be held to be vitiated or invalidated by reason only that any person or number of persons not duly qualified by law may have taken part in such proceedings, unless such person or persons may have been required to make the declaration hereinbefore required to be made by members of such councils, and shall have refused or neglected to make it.

In case of refusal to make declaration of qualification, the warden to give notice of new election.

X. And be it enacted, that in cases where any person duly elected to the office of councillor in any of said districts, shall refuse to accept such office, or shall refuse or neglect to take and subscribe the above-mentioned declaration, it shall and may be lawful for the warden of such district, as often as such case shall occur, to proceed after days' notice in this behalf to the electors qualified to vote, to be posted on the doors of the court-house or court-houses in the district, to another election of a fit and proper person to supply the place of the person who shall have so refused or neglected to accept office, or take and subscribe the said oaths; and the councillor who may be elected at such new election, shall hold office until the time at which the person in whose place he may have been elected, would, according to the provisions in said letters patent contained, have gone out of office, and no longer: Provided, however, that nothing herein contained shall be held to repeal or affect the provision in the several charters establishing district councils, by which it is provided, that after the full number of councillors to be regularly elected, or in default thereof, nominated or appointed, in every year, shall have been so elected or nominated, no new election or nomination of councillors shall be made by reason of such extraordinary vacancy, unless the number of the whole council (warden included) remaining after such vacancy shall be less than five, in which case the number of councillors for the district shall be completed.

Proviso in clause 17.

Petitions against undue returns.

XI. And be it enacted, that all complaints of the undue return of members to serve in any district council shall be addressed in the form of a petition to the warden and councillors of such district; and that no petition shall be noticed, nor any proceedings had thereon unless it shall be addressed to the said warden and councillors by a person who was a candidate at the election whereof it may be alleged that an undue return has been made, or by a number of persons who either voted, or were qualified to have voted at the said election, amounting to not less than one-tenth of the whole number on the list of electors; and no petition shall be noticed which shall not be received by the warden within 10 days from the day on which the result of the election may have been declared by the warden.

Proceedings of council on petitions.

XII. And be it enacted, that within 21 days after any such petition shall have been received by the warden, the petition shall be referred by the warden to the council; and in deciding on the merits of such petition the council shall have power to regulate its own proceedings, and shall be guided by the principles of good faith and equity, and shall receive or reject at their discretion any evidence that may be tendered to them, and shall have power

power to compel the attendance of witnesses, and to examine them on oath; and if the said council shall declare that any person was not duly elected who was returned as elected, the person so declared to have been not duly elected shall cease to be a member of the said council; and if the said council shall declare that any person was duly elected who was not returned as elected, the person so declared to have been duly elected shall be sworn a member of the said council, and take his seat accordingly; and if the said council shall declare any election to have been absolutely void, it shall be lawful for the warden to proceed to a new election. Encl. 2, in No. 2.

XIII. And be it enacted, that the decision of every district council shall, in matters of disputed elections, be final and without appeal; and that their proceedings may be conducted in a summary manner. Decision to be final and proceedings summary.

XIV. Provided, however, and be it enacted, that no person whose seat may be in dispute shall take part in any such proceedings. Members whose seats may be in dispute, not to take part in proceedings.

XV. And be it enacted, that from and after the passing of this Act, the warden, or in his absence the chairman appointed to preside at any meeting of such council, shall be entitled to vote on all questions, but such warden or chairman shall not be entitled to have a double vote on any question, anything in said letters patent to the contrary notwithstanding. Warden not to have double vote.

XVI. And be it enacted, that if at any time a district councillor shall accept the office of warden, either of his own or of any other district, his office of district councillor shall thereby become vacant, in the same way as it would become vacant were he naturally dead. Councillor becoming warden, seat vacant.

XVII. And be it enacted, that the meetings of the council of each district respectively shall be open to the public, under regulations to be made by such councils, and except as hereinafter excepted shall be held at some fixed place within each district, to be provided and appropriated for the purpose. Meetings of council to be open to the public.

XVIII. And be it enacted, that minutes of the proceedings of all the meetings of the said councils shall be drawn up and fairly entered in a book to be kept for that purpose by the clerks of the said councils respectively, and such minutes shall be signed by the warden or temporary chairman who shall preside at the meeting. Minutes of proceedings to be kept.

XIX. And be it enacted, that all other books of each district council respectively in which the bye-laws, rules, orders, regulations, minutes, or other proceedings are entered, shall be open to inspection by any elector of the district at all reasonable times, on payment of a fee not exceeding 1 *s.* Books to be open to inspection.

XX. And whereas certain powers and authorities are now vested in justices of the peace, by an Act of the Legislative Council, passed in the fourth year of the reign of his late Majesty King William 4, intituled, "An Act to repeal an Act of the Governor and Council of New South Wales, intituled, 'An Act to authorize the erection of Pounds, and for regulating the Impounding of Cattle,' and to make further and other provision in lieu thereof;" and also by another Act, passed in the fourth year of the reign of Her present Majesty, being an Act to amend the said Act hereinbefore recited; and it is expedient that the same should be transferred to the district councils of the several districts: be it enacted, that all the powers and authorities now vested in the justices of the peace of each district respectively by the said recited Acts, shall respectively be, and are hereby transferred to and vested in, and may be exercised by the district council of each district respectively, within the limits thereof; and that all duties required by the said recited Act or Acts to be performed by the clerk of petty sessions, and all accounts and other things required to be furnished to him for the information of such justices, shall be henceforward performed by and furnished to the clerk of the district council of the locality. Certain powers transferred to district councils. 4 Will. 4, No. 3. 4 Vict. No. 1.

XXI. Whereas by an Act of the Governor and Legislative Council, passed in the fourth year of the reign of Her present Majesty, intituled, "An Act to provide for the making and repairing of Parish Roads in the Colony of New South Wales," certain provisions were made for the election and appointment of trustees for parish roads; and whereas it is deemed expedient that the same should be repealed, for the purpose of allowing the district councils to act and be *ex officio* trustees within their respective districts, in the place of trustees elected or to be elected in pursuance of said provisions: be it enacted, that from and after the day of next so much of the said recited Act as relates to the election of trustees for parish roads shall be and is hereby repealed. 4 Vict. No. 12, repealed in regard to the appointment of trustees.

XXII. And be it enacted, that from and after the said day of the district councils in their several districts shall be *ex officio* trustees of all parish roads within their several districts, with as full and ample powers and authorities as trustees who have been or might have been elected under and by virtue of the aforesaid provisions of the said last recited Act; and the said several district councils and their officers shall have the same powers and authorities, and shall be liable to the same duties in respect to the parish roads within the limits of the respective districts, as are given to and imposed upon elected trustees by the same. District councillors to be *ex officio* trustees of parish roads.

XXIII. And be it enacted, that the district surveyor of each district shall have the same powers, authorities, and duties, in respect to parish roads, as the surveyor or surveyors appointed or to be appointed under and by virtue of said last recited Act. Powers of district surveyors extended.

Councils of the districts of Sydney and Bourke, may sit in the city of Sydney and town of Melbourne.

XXIV. And whereas it may be expedient for the district councils of Sydney and Bourke to hold their meetings within the limits of the city of Sydney and the town of Melbourne respectively; be it enacted, that it shall and may be lawful for the council of the district of Sydney to assemble for the business of the council within the limits of the city of Sydney, and for the council for the district of Bourke to assemble for the same purpose within the limits of the town of Melbourne.

Assessments.

XXV. And be it enacted, that each of the said district councils shall assess all tenements and lands whatsoever within their respective districts, whether cultivated or uncultivated, cleared or uncleared (Crown lands excepted), according to the full and fair annual value of the same, or according to the profit to be derived from, or the rent which would be given for, them by a prudent and solvent tenant; provided however, that the annual value of uncultivated, waste, or uncleared land shall not be valued or assessed at less than pence per acre per annum.

Rates payable by occupiers.

XXVI. And be it enacted, that on the assessments so made, rates shall be levied by the district councils, and that such rates shall be raised on such assessments equally, or at such a number of pence in the pound as may be fixed from time to time by the said councils, or any of them; and such rates shall be paid by the occupiers or persons in possession (whether owners or tenants) of the lands so assessed, to the collectors to be appointed for that purpose by said councils respectively; and if any such occupier shall neglect or refuse to pay to any such collector the money or rate due by him or her for the space of 14 days next after the same shall have been demanded by such collector, either personally or by a written notice left at the last or usual place of abode of such occupier, if such place can be found within the district, but if not, then by posting a notice of such demand on some conspicuous place on said lands so assessed, such money shall be levied and recovered from every such occupier so neglecting or refusing to pay the same, by distress and sale of the goods and chattels, lands and tenements of such occupier so in default, by warrant under the hand and seal of a justice of the peace, who, on proof upon the oath of such collector of such demand or notice, and of such neglect or refusal, shall be and is hereby empowered and required to issue the same; and the surplus, if any, of the monies raised by such distress and sale, shall be paid on demand to the owner of the goods and chattels, lands and tenements, so distrained and sold, after deducting all costs, charges, and expenses attending or preparatory to such distress and sale, the same to be ascertained by such justice; and in default of such distress it shall be lawful for such justice to commit such defaulter to the nearest gaol or house of correction, there to remain without bail for any time not exceeding three calendar months, unless payment of such sum or sums of money as shall have been found to be due and in arrear upon such assessment as aforesaid, together with all costs, charges, and expenses, to be ascertained by such justice, shall be sooner paid.

Recovery of rates from absentees.

XXVII. Provided always and be it enacted, that if any owner or occupier of any land situate within any such district does not reside thereon, or in any place within the limits of such district, and in case there be not sufficient goods or chattels of such owner or occupier within the district to distrain upon for the payment of any rates due and owing on such land, under and by virtue of this Act, or of any bye-law passed by such district council, it shall and may be lawful for the council for the district in which such land shall be situated, to sue such owner or occupier for the recovery thereof, in any court of competent civil jurisdiction in the said colony.

Rates to be levied on sheep, &c.

XXVIII. And be it enacted, that it shall and may be lawful for each of said district councils to levy rates upon all sheep, cattle, horses, and dogs within the limits of their respective districts, at such sum per head for each animal as may be fixed by a bye-law for that purpose, to be passed by the council.

Payment, or recovery of rates.

XXIX. And be it enacted, that the last-mentioned rates shall be paid by the agisters or other persons in possession of such sheep, cattle, or horses, whether owners or not, and by the owners of dogs, to the collectors for that purpose to be appointed by said district councils; and if any such agister or other person in possession of such animals, or their owners, shall neglect or refuse to pay to any such collector the money so assessed on the aforesaid animals, for the space of 14 days next after the same shall have been demanded by such collector, either personally or by a written notice left at the last or usual place of abode of such agister or other person in possession of such animals, or the owners thereof, if such place can be found within the district, but if not, then by posting a notice of such demand on some conspicuous place on the lands or place where such animals are kept, such money shall be levied and recovered by distress and sale of a sufficient number of the animals aforesaid themselves, so rated, by warrant under the hand and seal of a justice of the peace, who, on proof upon the oath of such collector of such demand and notice, and of such neglect or refusal to pay, shall be and is hereby empowered to issue the same; and the surplus, if any, of the monies raised by such distress and sale shall be paid on demand to the owners of such animals, or the person having them in possession, after deducting all costs and expenses attending or preparatory to such distress and sale, the same to be ascertained by such justice.

4 Gul. 4, No. 11.

XXX. And whereas by a certain Act of the Governor and Legislative Council of said colony, passed in the fourth year of the reign of his late Majesty King William 4, intituled, "An

"An Act for making, altering, and improving the Roads throughout the Colony of New South Wales, and for opening and improving the Streets in the Towns thereof," certain powers, duties, and indemnities are imposed and conferred upon the said surveyor-general and his assistants; and whereas it is expedient that similar duties, powers, and indemnities should be extended to district surveyors, or to surveyors acting under the directions of any district council: be it enacted, that all the duties, powers, or indemnities which by the last recited Act were imposed or conferred upon the surveyor-general and his assistants, shall be and hereby are conferred on and extended to district surveyors, or surveyors acting under the direction of any district council: provided however that nothing herein contained shall be held in any way to impair or invalidate the powers and indemnities which by the said last recited Act were conferred on the surveyor-general and his assistants, when actually engaged in the execution of any public duty, or interfere in any way with the duties and powers of the surveyor-general in the laying out of roads throughout the colony. Encl. 2, in No. 2.

Tolls.

XXXI. And whereas by an Act of the Governor and Legislative Council of New South Wales, passed in the second year of the reign of his late Majesty King William 4, intituled, "An Act for repealing so much of an Act, intituled 'An Act to continue until further provision shall be made, certain duties, tolls, rates, fees, and other sums of money imposed by the Governors of New South Wales, and for other purposes,' as relates to the levying of tolls in New South Wales, and for raising a fund towards making, repairing, and upholding public roads, bridges, and ferries, and for regulating the collection of tolls thereon," authority was conferred on the Governor of said colony for the time being to appoint by proclamation under his hand, places at which tolls should be collected upon certain lines of road, and to cause tolls to be collected at certain bridges and ferries; and to cause toll houses and ferry houses, gates, bars, chains, rails, and fences to be built and set up, to prevent passengers, beasts, and carriages from passing without the payment of toll; and whereas in pursuance of that authority tolls have been established upon divers roads and bridges in parts of said colony, and toll houses, ferry houses, gates, bars, chains, rails, and fences have been built and set up for the purpose aforesaid; and whereas it is expedient that the property in the same, and the right to collect and cause such tolls to be collected, should henceforward be vested in the district council of the district in which they are situated: be it enacted, that from and after the day of next, the right, interest, and property of and in all tolls (save as hereinafter excepted) which have been established on any public road or bridge, and of and in all toll houses, ferry houses, gates, bars, chains, rails, and fences built and set up, in pursuance of said last recited Act, shall be and are hereby vested in each district council for the district in which they may respectively be and are situate, and each such district council shall be, and is hereby authorized and empowered to apply and dispose of the same as they may think fit within their respective limits, and to bring or cause to be brought any action or actions or other civil proceedings, and to prefer and prosecute, or cause to be preferred and prosecuted, any informations, charges, or indictments against any person or persons who may evade, or attempt to evade, any provision or provisions of said last recited Act, or who shall break or pull down, steal, take, carry away, spoil, destroy, damage, or in anywise injure any of the roads, bridges, toll houses, ferry houses, or any buildings, toll boards, bars, gates, posts, rails, fences, or other things, or any of the conveniences or appurtenances thereunto belonging, or shall interrupt such district council, or any of its officers in the duties in respect thereto, or in the possession thereof; in all which proceedings it shall be sufficient to state, generally, any or all of said things to be the property of the district council of the particular locality. 2 Will. 4, No. 12.

Powers of erecting toll-houses, &c. transferred to the councils.

XXXII. And be it enacted, that it shall and may be lawful for the several district councils to exercise all the powers conferred on the Governor of said colony in respect to the establishment of tolls or ferries, or the levying or leasing thereof, and the erection of toll houses, ferry houses, gates, bars, chains, rails, and fences upon any public road or bridge within their respective limits; provided always, that no such toll houses, turnpike gates, or bars shall be erected within a less distance than five miles from the extreme boundary of every such district, and that no ferry shall be established over any river or water of which the opposite banks shall be in different districts, without special authority from the Governor and Legislative Council.

Right to take toll declared.

XXXIII. And be it enacted, that it shall and may be lawful for the said several councils, or any person or persons appointed or authorized by such councils as collector or collectors or lessees of the tolls to be taken by virtue of the said last recited Act, to demand and take every day the several and respective tolls mentioned therein (or any lesser tolls), at the several and respective toll gates and ferries which have been, are, or shall be erected or established in pursuance of the same, or of this or any future Act of the Governor and Legislative Council of said colony, upon or across any public road, bridge, or ferry within their respective limits, and which tolls or sums of money shall be demanded and taken as aforesaid before any passengers, horses, beasts, or carriages (save as is excepted in said recited Act) shall be permitted to pass through any toll gate, or over any ferry; and the tolls and sums of money to be collected by virtue of and in the exercise of the powers hereby conferred on the said district councils and their officers, shall be, and the same are hereby vested in such district council of the locality.

How money taken by toll is to be appropriated.

XXXIV. And be it enacted, that all tolls and sums of money so to be levied and collected by said district councils, under and in pursuance of the provisions of said last recited Act and of this present Act, shall be paid over to the treasurer of the district, for the support of the

Encl. 2, in No. 2.

the roads, bridges, or ferries in respect of which the said tolls are taken, and for no other purpose.

Powers of councils limited to their respective districts.

XXXV. And be it enacted, that it shall not be lawful for any district council by any bye-law to affect any property situate and being beyond the limits of the respective districts, nor any property *in transitu*, within their several districts, which shall belong *bonâ fide* to any person not residing in such district, or not owing any arrears of rates assessed on his or her property within such district: provided however that nothing herein contained shall prevent the collector of such district from pursuing and seizing any property clandestinely or fraudulently removed out of any district for the purpose of evading a distress for any district rates.

Distress not unlawful for want of form.

XXXVI. And be it enacted, that when any distress shall be made for any sum or sums of money to be levied by any district council by virtue of this Act, or under and by the authority of any bye-law passed by such council and in force, the distress itself shall not be deemed unlawful, nor the party or parties making the same be deemed a trespasser or trespassers on account of any defect or want of form in proceedings relating thereto, nor shall the party or parties distraining be deemed a trespasser or trespassers *ab initio* on account of any subsequent irregularity on the part of the party or parties distraining, but the person or persons aggrieved by such irregularity may recover full satisfaction for the special damage by action on the case.

How persons are to be punished who unlawfully resist.

XXXVII. And be it enacted, that in case any person or persons shall resist or make forcible opposition to any person or persons employed by any district council, in the execution of the powers vested in such council, or shall assault any surveyor or collector, or bailiff or their respective assistants, or shall make, or attempt to make any rescue of goods or chattels distrained or seized by the authority of any district council; every person offending therein, and being convicted thereof before any two justices in a summary way by the oath of one or more credible witness or witnesses, shall for every such offence forfeit and pay any sum not exceeding 20 *l.* nor less than 40 *s.*, at the discretion of such justices; and in case the same shall not be paid, such justices are hereby empowered and required to commit such offender to any gaol or house of correction for any time not exceeding three calendar months, or until the said forfeiture shall be sooner paid.

Recovery of fines and penalties.

XXXVIII. And be it enacted, that all fines and penalties imposed by any bye-law made by any district council, and with regard to which no special provision is by this Act made, or by any other Act or law already made, may be recovered with costs, on the oath of at least one credible witness other than the prosecutor, by summary proceeding before any two justices of the peace sitting at petty sessions within the district in which such fine or penalty shall have been imposed, and may, if not forthwith paid, be levied by distress and sale of the goods and chattels of the offender, under warrant of such justices, or one of them; and one moiety of such penalty shall belong to the informer or prosecutor, and the other moiety to the district, unless the informer or prosecutor shall renounce his portion of such fine or penalty, in which case he shall become a competent witness, and the whole fine or penalty shall in such case belong to the district, and shall (as shall the moiety in the case first mentioned) be paid over to the treasurer of the district, and make part of the district funds.

Ratepayers competent witnesses.

XXXIX. Provided always, and be it enacted, that no person shall be deemed incompetent to be a witness in any prosecution or suit for the recovery of any such fine or penalty, or in any suit for the recovery of any sum of money payable to any district, by reason of such person being an inhabitant or ratepayer of the district, or a member or officer of the district council, or in their employ, provided such person have no other and more immediate interest in the result of such suit or prosecution.

Publication of advertisements.

XL. And whereas, by the several charters which have been issued by his Excellency the Governor, it is required that certain advertisements be inserted in the New South Wales Government Gazette; and whereas the insertion of advertisements in the said Gazette may in some cases be inconvenient: be it enacted, that it shall and may be lawful for any district council, by a bye-law to be passed for that purpose, to cause such advertisements to be inserted in any other newspaper instead of the Government Gazette: provided however, that the annual accounts of the treasurer of each district shall always be published in the said Gazette, as directed by the said charters.

District councils may make additional provisions for the conduct of elections.

XLI. And be it enacted, that it shall be lawful for any district council, by a bye-law to be passed for that purpose, to make such additional provisions for the conduct of elections of district councillors, as to such district council may seem necessary: provided however, that such additional provisions be not repugnant to this Act, nor to any law in force within the colony, nor to the charter under which such district council was established.

Bye-laws already passed.

XLII. And be it declared and enacted, that if in any bye-law already passed by any district council, any matter or thing shall be contained contrary to the enactments of this present Act, such matter or thing shall by the passing of this Act be held to be repealed, and shall thenceforward be null and of no effect.

Limitations.

XLIII. And be it enacted, that nothing in this Act shall be construed to repeal or affect any enactment or provision of any Act or law in force within the said colony, or any power, right,

right, authority, duty, obligation, or liability thereby conferred or imposed upon any officer, officers, person or persons, unless and so far only as such enactment or provision shall be inconsistent with or repugnant to the express enactments or provisions of this Act, or the attainment of the objects and purposes thereof, according to its true inttent and meaning. Encl. 2, in No. 2.

(E.)

8 Victoria, 1844.

A BILL to settle the Proportions in which Money shall be raised in each District of the Colony of New South Wales, by Assessments, for the purpose of defraying half the Expense of maintaining a Police Force.

Whereas by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the fifth and sixth years of Her Majesty's reign, intituled, "An Act for the Government of New South Wales and Van Diemen's Land;" it is enacted, that one-half of the expense of the police establishment of the colony of New South Wales, (exclusive of the convict establishment,) shall be defrayed out of the general revenue arising from taxes, duties, rates, and imposts, within the said colony; and the other half shall be defrayed by assessment on the several districts of the colony, in such proportions as shall be from time to time fixed by the Governor and Legislative Council; and whereas it is necessary to fix the proportions in which the sums required for the payment of one-half of the expense of maintaining a police force, shall be raised in the different districts of the colony, during the year 1845: Be it therefore enacted by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That there shall be levied by assessment, within the several districts of the colony, incorporated by any charter issued by the said Governor, under the provisions of the said Act, and also within the City of Sydney and Town of Melbourne, the sums which stand respectively against the names of the said districts, city, and town, in the schedule to this Act annexed. Preamble. 5 and 6 Vict., Cap. 76. Sums to be raised in the several districts as in schedule annexed.

II. And be it enacted, That for the purposes of this Act, the Mayor and Council of the city of Sydney, and the Mayor and Council of the town of Melbourne, are authorised and required to perform the duties which in other parts of the colony are performed by the respective wardens and councils of the several districts into which the colony is divided. Mayors and councils of corporate towns, to act as wardens, and councils in other districts.

III. And whereas, under the provisions of an Act of the Governor and Council of New South Wales, passed in the second, and continued and amended by an Act passed in the fifth year of the reign of Her present Majesty, which latter Act is intituled, "An Act to amend and to continue for five years an Act, intituled, 'An Act to further restrain the unauthorised occupation of Crown Lands, and to provide the means of defraying the expense of a Border Police,'" an assessment is in some cases levied on stock depastured on Crown lands lying within the limits assigned to the jurisdiction of district councils, and it is neither just nor expedient that the same stock should be again assessed by the said district councils: Be it enacted, that no district council shall, during the year one thousand eight hundred and forty-five, make any assessment of, or raise any rate upon cattle or stock depastured on Crown lands, and subject to assessment under the Acts last recited, of the second and fifth years of the reign of Her present Majesty. 2 Vict., No. 27. 5 Vict., No. 1. Cattle or stock assessed under the 2nd Vict., No. 27, not to be again assessed by district councils,

IV. And be it enacted, That all stock depastured on Crown lands, under depasturing licenses, shall continue as heretofore, to be subject to the said assessment, under the Acts of the second and fifth years of the reign of Her present Majesty, notwithstanding that the lands on which such stock is depastured may be included within the limits of the jurisdiction of any district council. but such cattle or stock to be still assessed as heretofore.

V. And be it enacted, That out of the sums raised by assessment, under the said Acts of the second and fifth years of the reign of Her present Majesty, it shall and may be lawful for the Governor of New South Wales to appropriate such monies as may be necessary to make good any deficiency in the sums, which in the schedule to this Act annexed stand respectively against the districts of Bourke, Grant, and Normanby: Provided that there shall have been first raised for police purposes, under the authority of the councils of each of the said districts, rates equal to not less than three-pence in the pound, on the annual value of all real property within each district, (exclusive of the property of the Crown,) and in addition thereto, a rate of not less than one half-penny per annum on each sheep, one penny half-penny per annum on each head of cattle, and three-pence per annum on each horse, mare, or gelding not assessed under the said Acts of the second and fifth years of the reign of Her present Majesty. In the counties of Bourke, Grant, and Normanby, aid to be given out of the assessment raised on sheep, and cattle, depastured on crown land.

Schedule.

City of Sydney.
Town of Melbourne.
District of Bathurst.
„ Berrima.
„ Braidwood.
„ Brisbane Water.
„ Camden, Narellan, &c.
„ Campbelltown.
District of Cassilis.
„ Goulburn.
„ Hartley.
„ Illawarra.
„ Liverpool.
„ Macquarie.
„ Maitland.
„ Merton and Muswellbrook.

Encl. 2, in No. 2.

District of Mudgee and Wellington.	District of Scone.
„ Newcastle.	„ Sydney.
„ Patrick's Plains.	„ Wollombi and Macdonald.
„ Parramatta.	„ Yass.
„ Paterson.	„ Bourke.
„ Penrith.	„ Grant.
„ Queanbeyan.	„ Normanby.
„ Raymoud Terrace.	

(F.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, Friday, 9 August 1844.

3. District Councils' Bill:—Mr. Cowper, pursuant to notice, moved the adoption of the following Address to His Excellency the Governor:

May it please Your Excellency,

WE, Her Majesty's most loyal and dutiful subjects, the members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to transmit to Your Excellency the following resolution, which was passed by this House on the 25th ultimo, upon the introduction of "A Bill to make further provision respecting the constitution, and to define and extend the powers of District Councils, in the colony of New South Wales."

Upon the motion of the Colonial Secretary, that the Bill be printed and read a second time on Thursday, August the 1st, an amendment was moved, that the Bill be read a second time this day six months. Upon which another amendment was moved and carried: "That in the opinion of this Council the district councils are totally unsuited to the circumstances of the colony, the country districts being unable to meet the additional taxation which would, necessarily, be required in carrying out the various objects contemplated by their institution, and the cost of the machinery requisite for bringing them into operation, being of itself an obstacle fatal to their success, and that therefore the second reading of this Bill be postponed to this day six months."

We beg to acquaint Your Excellency, that the above Resolution was passed after a full consideration of the numerous petitions which have been presented to this House during the past and present Sessions, and under a full persuasion that the district councils, as at present constituted, cannot be carried out, without much hardship and oppression. We beg also to remind Your Excellency that this Council is prevented by the Act of the Imperial Parliament, 5 & 6 Vict. Reg., cap. 76, from amending the constitution of the district councils in the most important points prayed for; more especially in regard to the police clauses, which this Council and the colonists generally, consider the most obnoxious.

Under all the circumstances, we beg to request that Your Excellency will be pleased to make such a representation to Her Majesty's Government as will procure a repeal of those clauses of the Act of Parliament which have reference to the erection of district councils, and that the incorporation of towns or districts may be left to the Governor and Legislative Council of this colony.

We beg leave further to request, that until your Excellency is favoured with instructions from Her Majesty's Government, that your Excellency will be pleased to place upon the estimates of expenditure for the year 1845, such sums as may, in Your Excellency's opinion, be necessary to make provision, from the general revenue, for such objects as it was intended should be provided for by the district councils, had they been carried into operation.

Debated ensued; question put; Council divided.

Ayes, 20.	Noes, 8.
Mr. Murray.	Mr. Therry.
Mr. Walker.	Mr. Icely.
Mr. Lowe.	Mr. Hamilton.
Mr. W. C. Wentworth.	The Colonial Secretary.
Mr. Berry.	The Collector of Customs.
Mr. Cowper.	The Attorney General.
Mr. Windeyer.	The Auditor General.
Captain Dumaresq.	The Colonial Treasurer (Teller).
Mr. Panton.	
Mr. Bowman.	
Mr. Lawson.	
Mr. Suttor.	
Mr. Bradley.	
Mr. Coghill.	
Mr. Foster.	
Mr. Young.	
Mr. Macarthur.	
Mr. Robinson.	
Dr. Bland.	
Dr. Nicholson (Teller).	

Address to be presented to his Excellency the Governor, by a deputation to consist of the Speaker, Mr. Foster, and Mr. Murray.

(G.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, Tuesday, 20 August 1844. Encl. 2, in No. 2.

1. District Councils' Expenditure:—The following Message from His Excellency the Governor received, and read:

Message from his Excellency the Governor to the Legislative Council, replying to an Address of the Council, dated the 9th August 1844, wherein his Excellency was requested to place upon the Estimates of Expenditure for the year 1845, "such sums as may be necessary, to make provision from the general revenue, for such objects as it was intended should be provided for by the District Councils, had they been carried into operation."

Gentlemen,

The Council having rejected the Bills which I caused to be presented to them, for the purpose of carrying into effect the enactments of Parliament in regard to the police of the colony, I shall accept such sums as the Council may place at my disposal, for the maintenance of a police force during the year 1845, though I must disclaim any share in the responsibility which this infraction of the Constitution may involve.

I must also reserve to myself the right to make such alterations in the estimates recently submitted to the Council for the service of the year 1845, as the altered circumstances in which the Government is now placed may require. A Minute, showing these alterations, accompanies the present Message.

I shall, of course, communicate the Address of the Council to Her Majesty's Government.

Government House, Sydney, 20 August 1844. *George Gipps*, Governor.

Message, and Minute therein referred to, to be printed, and taken into consideration to-morrow.

(H.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, Wednesday, 24 September 1845.

THE Chairman brought up the following Resolution, and obtained leave to sit again to-morrow.

"That as no answer has been received by this Council to the Address which was voted on the 9th August 1844, in reference to the District Councils, his Excellency the Governor be requested to recommend to this Council that the expense of the police and schools of the colony during the year 1846, be defrayed on the same principle as was adopted for the current year."

Moved by Mr. Wentworth, That the House do adopt this Resolution.

Question put, and passed.

Moved by Mr. Wentworth, That an Address, embodying this Resolution, be presented to his Excellency the Governor by the Speaker and the Colonial Secretary.

Question put, and passed.

Council adjourned at ten minutes after eight o'clock, until to-morrow at Three o'clock.

(I.)

3. Police and School Expenditure, 1846.

MESSAGE from his Excellency the Governor, to the Legislative Council, replying to an Address from the Council, dated the 24th September 1845, wherein a request was preferred to his Excellency, that the expense of maintaining the Police and Public Schools of the Colony may be defrayed, during the year 1846, in the same manner as the expenses are at present defrayed.

Gentlemen,

I shall not object to make provision for the police and public schools of the colony, during the year 1846, on the principle on which the expenses of these establishments are now defrayed, if I be not, before the close of the present Session, prevented from giving my assent to such a measure, by the arrival of instructions from Her Majesty.

I have therefore to recommend, that sums for the maintenance of the police, not exceeding those which stand on the estimates now before you, may be voted without requiring any contributions from the District Councils; also, that sums may be appropriated towards the support of schools, equal in amount to those voted for the service of the current year. Under existing circumstances, I regret I cannot recommend that the provision for schools should be increased.

George Gipps.

Government House, Sydney, 30th September 1845.

Message ordered to be printed, and taken into consideration on Thursday, October 2.

Encl. 2, in No. 2.

(K.)

RETURN of the Number of Acres contained in each District, for which a District Council is provided, and the Extent of the Land alienated by the Crown, in each respectively.

No.	DISTRICT.	ACRES ALIENATED.	ACRES UNALIENATED.	TOTAL OF ACRES.
1	Macquarie	116,672	2,395,321	2,512,000
2	Raymond Terrace and Dungog	331,159	1,620,728	1,951,887
3	Paterson	168,283	104,960	273,243
4	Maitland	145,318	108,682	254,000
5	Patrick's Plains	251,784	151,500	403,284
6	Merton and Muswellbrook	149,818	542,080	691,898
7	Scone and Murrurundi	237,885	841,600	1,079,485
8	Cassilis	283,051	1,198,000	1,481,051
9	Mudgee and Wellington	244,787	2,035,135	2,279,922
10	Wolombi and M'Donald	97,173	958,827	1,056,000
11	Newcastle	35,868	76,160	112,028
12	Brisbane Water	57,054	300,800	357,854
13	Sydney	58,102	82,631	140,733
14	Parramatta	87,169	63,936	151,105
15	Windsor	92,059	429,630	521,689
16	Penrith	129,191	247,898	377,089
17	Liverpool	64,008	39,900	103,908
18	Appin and Campbelltown	51,361	82,603	133,964
19	Camden, Narellan, and Picton	129,386	340,000	469,386
20	Hartley	80,647	1,279,882	1,360,529
21	Bathurst and Carcor	715,236	2,719,858	3,435,094
22	Yass	146,387	965,099	1,111,486
23	Goulburn	590,714	955,920	1,546,634
24	Berrima	90,169	360,676	450,845
25	Illawarra	137,917	432,640	570,557
26	Braidwood and Broulee	262,060	1,399,133	1,661,193
27	Queanbeyan	403,201	806,402	1,209,603
	PORT PHILLIP.			
28	Bourke	156,640	5,027,360	5,184,000
29	Grant	59,854	5,412,146	5,472,000

Surveyor General's Office,
31 July 1844.

Encl. 3, in No. 2.

Enclosure 3, in No. 2.

TO His Excellency Sir *CharlesAugustus Fitz Roy*, K.C.H., Captain General and Governor-in-Chief.

Sir, Sydney, 6 January 1848.

The publication of the despatch announcing the intention of Lord Grey to introduce a Bill for the purpose of giving a Constitution to this colony of an entirely novel character, has excited feelings of the deepest alarm among the colonists of all classes, more particularly as it would appear to be his Lordship's intention to proceed with the measure without awaiting for further information from the colony.

A meeting of highly respectable colonists was held yesterday, at which I had the honour to preside, and at which a committee was formed to prepare resolutions and make other arrangements for holding a general meeting of colonists to petition and remonstrate against the proposed measure; and as, on a measure of such importance, it is necessary that great care should be used, some weeks will probably elapse before the documents will be ready for transmission to Her Majesty's Government, I am desired by the committee to bring these circumstances under your Excellency's notice, with the hope that you may use your influence with the Right Honourable the Secretary of State to prevent the introduction of the proposed measure until the colonists shall have had an opportunity of appealing to Her Majesty and both Houses of Parliament.

As I believe the mail for London will close this evening or to-morrow, I have been requested by the Committee to transmit this letter to your Excellency personally instead of through the Colonial Secretary.

I have, &c.
(signed) *J. Josephson*, Mayor,
Chairman of the Committee.

— No. 3. —

No. 3.
Sir C. Fitz Roy to Earl Grey.

(No. 31.)

COPY of a DESPATCH from Sir *C. A. Fitz Roy* to the Right Honourable Earl *Grey*.

Government House, Sydney, 2 February 1848.
(Received 1 June 1848.)

My Lord,

I HAVE the honour to transmit a petition addressed to the Queen, and signed by upwards of 3,100 persons of respectability residing in Sydney or its immediate neighbourhood, praying that Her Majesty will be graciously pleased not to assent to any change in the constitution of this colony, which shall not have received the previous sanction of the colonists at large.

This petition was framed in pursuance of resolutions passed unanimously at a public meeting held in Sydney on the 19th ultimo, which was very numerously attended by persons of every shade of opinion on other colonial topics, and of great respectability and influence.

It is right that I should add, that public meetings for a similar purpose have been called very generally throughout the colony, and that petitions to the same effect as the one now forwarded are in progress of signature.

I have the honour to enclose a copy of the "Sydney Morning Herald" of the 21st ultimo, containing a full report of the proceedings of the meeting held on the 19th ultimo.

I have, &c.
(signed) *Charles A. Fitz Roy.*

Enclosure 1, in No. 3.

Encl. 1, in No. 3.

TO the QUEEN'S Most Excellent Majesty.

The humble Petition of the undersigned Colonists of New South Wales,

Respectfully showeth,

THAT the publication of a despatch, dated the 31st July 1847, from Your Majesty's principal Secretary of State for the colonies, indicating a change in the constitution of this colony, by which (among other things) the system of district councils is to be perpetuated, and the Legislative Assembly is to be placed, with respect to those district councils, in the relation of representative and constituent, has filled us with the utmost apprehension and dismay.

That in consequence of the dispersion of a large portion of the inhabitants of this colony, any measure establishing municipalities, similar in principle to the district councils attempted to be created by the Act of Parliament 5 & 6 Vict. c. 76, would be so repugnant to the wishes, and so adverse to the interests of this community, that it is utterly impossible that it could ever be brought into effective operation.

That the change in the constitution of this colony, proposed in the before-mentioned despatch, would have the effect of depriving us of the elective franchise, which we maintain to be our inalienable right as British subjects.

That we cannot but be persuaded, that by delegating our right to elect our representatives, we are deprived not only of that choice to which we are entitled, but also of that constitutional control over our Legislature without which no people can be considered free.

That we are anxious to enjoy a form of government founded, as nearly as circumstances will admit, upon the principles of the British constitution, and that the making this colony the subject of a theoretical experiment in legislation, is a measure the justice or policy of which we can never admit.

That we see nothing in the erection of Port Phillip into a separate colony to justify the extraordinary change which is, by the before-mentioned despatch, proposed to be made in the constitution of the colony.

That we feel ourselves entitled to expect, that no important alteration in that constitution shall be made without the previous consent of those whose persons and property it may be intended to affect.

Your petitioners therefore humbly pray, that Your Most Gracious Majesty will not assent to any change in the constitution of this colony which shall not have received the previous sanction of the colonists at large, and your petitioners will ever pray, &c.

Enclosure 2, in No. 3.

Encl. 2, in No. 3.

EXTRACT from the "Sydney Morning Herald" of the 21st January 1848.

Great Public Meeting to Oppose Lord *Grey's* intended Alteration in the Constitution of the Colony.

In pursuance with the arrangements made by the Committee appointed to draw up resolutions and petitions to Her Majesty and both Houses of Parliament, with respect to the despatch of Earl Grey, and the changes in the constitution of the colony proposed therein, a public meeting was held at the Victoria Theatre on Wednesday afternoon, to adopt such resolutions. The pit and boxes were densely thronged, whilst the stage, on which the more active movers in the matter were assembled, was crowded with the most influential gentlemen of the colony, of every shade of political opinion. At about half-past two, Dr. Dobie moved that the Right Worshipful the Mayor do take the chair.

Mr. Francis Macarthur seconded the motion. Carried.

His Worship having taken the chair, opened the business of the meeting. The subject on which they had been called together, was the despatch of Earl Grey, relative to certain proposed changes in the constitution of the colony. That despatch it would presently be his duty to read to them, in order that they might fully understand the objects, and appreciate the importance of the present meeting. He should detain them with very few remarks, for the various resolutions which formed the basis of the petition would be moved and discussed by gentlemen of far greater ability than himself. But he could not but express his own opinion, that the changes proposed in the despatch were such, that no good could be expected from them, whilst to carry them out must cause those disturbances and confusions so dangerous to the political welfare of a state. Had the plans of Earl Grey with regard to this colony been fully developed, there might have been no occasion for the present meeting; but the document was so vague that they were left unacquainted with the actual form of their new constitution. It seemed, however, that it was intended to introduce a form of government similar, if not identical, with the constitution lately given to New Zealand. Such a form would not only be most unjust to the colonists, but it could not work well. It would indeed be a piece of class legislation, disastrous in its results. The Legislators of the country were to be elected only by the elected for the district councils; whilst the right of representation by the members of their own choice would be taken from the people altogether. Then they were to have two legislative houses; so that neither could be independent. One of these was to be a council of nominees appointed by the Crown, and of course dependent—only on the Government; and the other house, subservient only to the district councils, by whom its members would be elected. The elective franchise, therefore, which had been so recently conceded to them, would be entirely destroyed, and that against the assent of the people themselves. With these few remarks he would beg to read the despatch of Earl Grey.

The despatch having been read,

Mr. Norton rose to move the first resolution. He was sorry that, in moving this resolution, the task had not fallen on some one who could, not have felt more deeply its truth and importance, but who might with greater ability have expressed more strongly than he could his sense of the evils about to be inflicted on the colony by Her Majesty's Ministers. The resolution he had to move was as follows:

"That this meeting views the proposed change in the constitution of the colony, indicated by the despatch of the Right Honourable the Secretary of State for the colonies, now before the public, with the utmost apprehension and dismay."

The sentiments contained in this resolution must, he was sure, carry with them those of every sincere well-wisher of the colony. Step by step had concessions of political rights been made to the colony, and on this gradual progress towards civil liberty, many people had been led to emigrate, in the full belief that they were coming to New South Wales to enjoy those privileges which are the birthright of Englishmen, to a land free from political abasement, a land worthy of the parent country by which it was founded. (Cheers). First, they had their old council granted to them, freeing the colony from the absolute control of the executive. Then they gained the glorious boon of trial by jury, and at last they gained their present constitution, by which the members of the legislature were made personally responsible for their acts to the people who elected them. And now this right of enfranchisement was to be taken from them, not because they asked for it, not because it had not worked well, for he contended the Council had done its duty, and in the efforts it had made, loyally and honestly it had done its duty to the country. True it was that all its measures might not be wise, were not free from errors; but it must be remembered how short their season of political education had as yet been. The public mind required to be disciplined before it could be expected to enter with perfect correctness into all the details of experienced legislation; but he did believe, and the colony would re-echo his belief, that in all their measures the representatives of the colony had been actuated by a deep sense of duty to the colony, and to the parent country. There was one convincing proof that the present Council had worked well, had done its duty, and it must be satisfactory to the members of that Council to know, that although now the constitutional rights which they had so energetically protected were about to be torn from them, that in the exercise of their functions, nearly every measure they had passed had received the assent of the English Ministry. What pretext then could exist for altering this constitution, when nearly all the measures it had given birth to were approved of by the English Government, and those that were not

Encl. 2, in No. 3.

so approved, showed only how grossly a ministry in Downing-street, 16,000 miles away, could err, in forming any opinion of the good or evil of any measures for this colony? There was the Lien on Wool Bill, a measure, which perhaps as much as any measure ever passed, had benefited the colony, had in fact saved it from destruction, had twice been disallowed by the Home Government. It did occur to him, when Her Majesty's advisers first refused to assent to this measure, that they might have fancied that the colonists were the best judges of the circumstances in which they were placed, and of the remedies to be applied to them. But, no; the Minister found out that the Bill, so beneficial in its provisions, must be disallowed, in some crotchet of its not being consistent with English law, although he had never yet been able to make out on what points it was inconsistent with any English law whatever. But when it was disapproved of again, it did occur to him most forcibly, that neither the wishes nor the interests, nor even the distresses of the colonists, were matters of much concern or moment to Her Majesty's Ministers. And now that the constitution they possessed, and had been tried and found to work well, when they were looking forward to still further concessions than those which had been already made to them, they were threatened with the measure which would place them in a worse position than that in which they stood 20 years ago. The Minister must know that even if district councils could be carried into effect here, that although the parties elected might be very upright, honourable, and honest men, they would be men whom it would be entirely unfit to trust with the sole control of the elective franchise. There was, however, one argument of more importance than all the rest to be urged against the measure, and one which was of itself sufficient to induce the colonists to resist in any possible way, and that was that the constitution it was proposed to give them was perfectly different to that of the parent empire. It was a perfect novelty in legislation, and offered no precedent by which to test its good or evil. Whether it were a good measure or a bad one, it had this dangerous defect attaching to it, which ought to induce all most carefully to shun it; namely, that there was nothing in past experience to guide them in the working of it,—a defect which would counterbalance any advantages it might possess. In such a measure they had placed the light, if light there were, at too remote a distance to allow the mind to be illumined by it. But if this innovation were not suited to England, how much stronger the objection to trying it here, when the Minister at home was perfectly ignorant of the circumstances of the colony? Where it was urged by one Minister that the fire should not be allowed to do its work of devastation on the grasses of the country, whilst the island of Cockatoo was appointed the place to which all the mass of prisoners should be sent. These were the lights by which they were guided in their profound legislation for this colony. Who could contemplate the vast wastes of the colony not yet redeemed from the wilderness? Who could contemplate the recent discoveries of mineral treasures, probably richer than any in the world? Who could contemplate the droughts which devastate the colony; thousands and thousands of animals, the very wealth of the colony, perishing from their effects, without feeling the deep conviction that in this country, of all others, legislation to be effective must be present and immediate? (Cheers.) That the legislature should be made by those who had a deep interest in all the concerns of the empire? He felt that it was so important to the interests of the colony and of England that the fullest inquiry should be made into the circumstances which ought to guide legislation, that the colony ought to have its own representative in Parliament. Then they would not have the freest government in the world making laws, that he would not say would be disapproved, but that would actually astound all England if applied to the barrenest waste, the most confined country of the empire (Cheers). And why were the rights of Englishmen withheld from them more here than elsewhere? If such an innovation had once been commenced in England, the whole country would have been aroused to denounce, and even the very slightest innovation on these rights so dear to Englishmen, would probably in its results have threatened to upset the whole constitution. But even if this new scheme could be carried into present effect, how long was it to last? Was it fancied that it could last through the ages which would give to Australia a name and place among the nations of the earth? Till all its wide wastes were redeemed from the desert, till all its vast mineral treasures, which, if stamped with a diadem, were still applicable to all the purposes of civilized life, were developed? It was hardly possible to contemplate such an intention; but if it were so, then it seemed to involve a very serious reflection on Her Majesty's Ministers, who must proclaim by it, that the English constitution was not fit for her colonies. If it were not so, if it were intended at some future day to give all the noble institutions of their father land to the colony, what a miserably strange perversion of the scriptural command, "Train up a child in the way he should go, and when he is old he will not depart from it." How were they to learn the true working, how were they to learn to cherish and respect the venerated constitution of their country, if their days of pupillage in legislation were to be passed in the angry discussions, the constant abuse which this infringement on their rights would give rise to? Except by such gross impolicy and injustice he could alone attribute this proposed change, unless he could venture to attribute it to a miserable jealousy of this colony and its rising greatness; and if so, he knew but one parallel to it in history, and that was of an American law which made it highly penal to teach the unfortunate African to read; thus debasing the poor creature to the condition of a brute, to prevent him aspiring to be anything beyond a slave. But how miserable, how short-sighted such a selfish policy. (Cheers.) How much wiser and nobler to endeavour to extend her dominion to every portion of the globe, and look on her colonies as additional countries added to the empire, to carry into the remote ends of the earth the language,

Encl. 2, in No. 3.

language, the arts, the sciences, which had grown up under her own glorious constitution, and to plant that constitution, and the rights and privileges it gave, wherever British colonization flourished. A different policy than had been adopted to America would have made these great colonies her fervent ally in peace or war, would have secured the connexion between them in amity for ever. And what advantages would not America have derived from the continuance of such a connexion. In the engagement of the science, and art, and literature of England, the language of the Americans, now so corrupted and alloyed, would have retained its purity. Her nobles and her senators would have been educated at British colleges, and the great institutions of the parent country would have flourished again in the generous emulation which would have been excited in the offspring. But such had not been the case; but England should recollect in the contracted and unjust colonial policy she was now pursuing, that the fate of nations was never beyond an overwhelming destiny. That though through her energetic intellect, science had led her to the most important place amongst nations, yet notwithstanding her resources she might be bowed and broken before some unexpected tempest. The miserable failures of the crops, which lately caused suffering so intense throughout the empire, ought to be a warning to her; for should that failure have extended throughout Europe, and it had done so twenty times in the annals of history, how advantageous when those supplies failed which neighbouring countries were accustomed to give her, to be enabled to turn for aid and assistance to her far off colonies, which, under a system of policy which would plant the institutions of the parent country amongst those which would have nothing but the distance of space, between the rights exercised by Englishmen at home and Englishmen here, would hold out every inducement to immigration until their mighty resources were fully developed. (Cheers.) Most nations had gone down in the world, and England might yet be doomed to share their fate. He did not say that any had been her equal in resources and greatness, but that they stood in their day much in the position she at present occupied in relation to the rest of the world. Let the colonists then show to the people of England that they were fit to enjoy those privileges which the Constitution of England made their inalienable right. That they knew how to choose between slavery and freedom, and would not tamely submit to have their liberties taken from them, or endure in silence the scourge of the oppressor. (Cheers.)

Mr. James Martin could assure them that it was a most high gratification to him on looking round at that meeting to see men of so many different opinions, whose political views were in general so hostile to each other, assembled to make common cause in resisting the measure sought to be inflicted on them by Earl Grey. He was sure that on no previous occasion, however urgent, had many of the gentlemen around him ever acted in concert. But he was not surprised to see them now, for they were called on to act as Englishmen in resisting an oppression that would put an end to everything worthy the name of liberty. On such an occasion as the present it was difficult to preserve that moderation in language, in which all such great and momentous questions should be discussed. If the measure had been proposed to them for their consideration and acceptance, it would be enough to excite their just indignation to imagine them base enough not to scorn it; but how much worse was their position, when they yet scarcely knew that Earl Grey had not already carried his views into effect without even the appearance of asking for the assent of the colonies. There was an ambiguity in the despatch of the Secretary of State which left it extremely difficult to determine what course he intended to pursue. At the close of the despatch he found the following paragraph:

"What I have written will, however, I trust, be sufficient to relieve the anxiety of the public mind in New South Wales, respecting arrangements pregnant with results so momentous to that part of Her Majesty's dominions, and therefore so deeply interesting to every other member of the widely extended empire over which Her Majesty reigns. It will be no slight relief to the responsibility of proposing such a change, to find myself in possession of the most complete local intelligence, and supported by the opinion of the most eminent local authorities."

From the first part of this extract it would seem doubtful whether Earl Grey wished the colonists to give any opinion on the matter at all. If he did so, why did not he candidly and openly send the despatch to the Governor to be at once published, and thus elicit public opinion upon it? In the latter part, however, he states that he wishes his opinions to be confirmed by eminent local authorities; and what authorities would he have if he reject that of the chosen representatives, who have utterly repudiated the system of District Councils, on which the notable scheme rests? Reading the despatch, and looking at its tone and tenor, there could be no doubt that the proposed innovation in the constitution was a blow levelled at the Legislative Council, and that it was not proposed from any abstract good in it. It arose, not from the spontaneous belief in the Minister's mind that it would be an improvement, but was traceable, he had no doubt, to the suggestions of Sir George Gipps, who, finding that even backed by the twelve nominees in the present Council, he had been unable to carry his measures against the representatives of the people, suggetsed this insidious scheme to take from these representatives what little power they ever possessed. The gentleman who had preceded him had paid a well-merited tribute to the existing Council. The different measures which had been passed by that body might be viewed in different light by persons of different opinions; but they were the result of an honest sense of duty, and in many instances had greatly benefited the colony. But whatever their acts, the Council had done great good by showing the colony for the first time how public business was carried on. It had infused into the community a spirit which had never before existed, and which gradually growing up, would fit them for due and proper exercise of all their constitutional rights,

rights,—and this of itself was enough to entitle them to respect. That this was the object of the new measure was evident; for it was repeated over and over again in the despatch, that the Council had got all the power, and therefore it was proposed to erect two houses of legislature, one of which should be composed of nominees of the Crown only, which should stand between the representatives and the Government. The question of whether two houses were better than one, might be disputed. In an independent country, perhaps it was so. But here they had no materials for the constitution of a second house. They were dependent for its constituents solely on the will of the Government, which would give it a very different position to that occupied by the House of Lords at home. Far better for them to keep the constitution they had at present, which had as yet worked well, and had not been found fault with by the colonists. There were two prominent points of objection to the proposed change, to which he would briefly advert; first, the continuation of district councils; and, second, giving those bodies power to elect the legislature. Now the expression of the opinion of the Legislative Council, in regard to the first of these points, ought to have convinced Lord Grey, if he were sincere in his expression of a wish to be supported by the opinion of local authorities, that such a measure must be most distasteful to the colonists. In spite of all the exertions of the legislature, the earnest desire evinced to bring these bodies into existence, not one of them had as yet performed any one of the duties that were designed for them in the Constitutional Act. The Legislative Council had from the first resolutely set their faces against investing them with power to exercise those functions which they were intended to exercise. They would have nothing to do with district councils, and had told the Secretary of State so, distinctly and emphatically; and after having been called into being five years, not one had exercised any of its functions. One indeed of these institutions, which had obtained for itself a most unenviable notoriety, had appeared to sustain an existence—the Parramatta,—but he denied that even this one had exercised any of its legitimate functions. It was intended that district councils should have powers to assess property, and make rates and taxes for divers purposes,—not one of which it had performed, and therefore was virtually defunct. But with the full knowledge of all this, the British Government persevered in the endeavour to force this measure down the throats of the colonists. But the more important view in which this measure was to be looked at was, the establishment of the position of constituents and representatives between these bodies and the legislature; or what was in other words virtually taking from the colonists the privilege of the elective franchise. There was no precedent whatever under the British constitution for a measure like this. True it was that before the passing of the Reform Bill, certain limited bodies and corporations did send members to Parliament; but it was a right they did not possess under the constitution, but which they had usurped in the gathered corruptness of ages. But even if it existed before the passing of the Reform Bill, any such right had been repealed; and under the constitution as it now stood, no member of the legislature could be elected by mere local bodies, but must be elected by the great body of electors. It was urged indeed, by Earl Grey, in his despatch, that it was proposed by this measure to assimilate the constitution of these colonies to that of the old American colonies. There was a specious policy in this, as it was generally imagined that the constitutions of the American colonies were free and based on that of Great Britain. When he first read the statement of Earl Grey, he must acknowledge that it did startle him a little. He thought he knew something, had read something, of the history and constitution of the old American colonies, but he certainly remembered nothing in it at all resembling that which it was proposed to inflict upon this colony. But when he reflected, the weight which such as assertion should have coming from a person in the high and responsible position held by his Lordship, a position which could not be held without the possession of at least much talent and information; he perused and referred to the authorities on the subject, and in the very highest that could be adduced, that of Judge Storey, he found the following passage:— Encl. 2, in No. 3.

"The American people had long been in the enjoyment of the privilege of electing, at least, one branch of the legislature, and in some of the colonies, of electing all the branches composing the legislature. A house of representatives, under various denominations, such as a house of delegates, a house of commons, or, simply a house of representatives, emanating directly from, and responsible to the people, and possessing a distinct and independent legislative authority, was familiar to all the colonies, and was held by them in the highest reverence and respect. They justly thought, that as the government in general should always have a common interest with the people, and be administered for their good; so it was essential to their rights and liberties, that the most numerous branch should have an immediate dependence upon and sympathy with the people. There was no novelty in this view. It was not the mere result of a state of colonial dependence, in which their jealousy was awake to all the natural encroachments of power in a foreign realm. They had drawn their opinions and principles from the practice of the parent country. They knew the inestimable value of the House of Commons, as a compound branch of the British Parliament; and they believed that it had at all times furnished the best security against the oppressions of the Crown and the aristocracy. While the power of taxation, of revenue, and of supplies, remained in the hands of a popular branch, it was difficult for usurpation to exist for any length of time without check; and prerogative must yield to that necessity, which controlled at once the sword and the purse. No reasoning, therefore, was necessary to satisfy the American people of the advantages of a house of representatives, which should emanate directly from themselves; which should guard their interests, support their rights, express their opinions, make known their wants, redress their grievances, and introduce a pervading popular influence throughout all the operations of the government. Experience as

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as well as theory had settled it in their minds, as a fundamental principle of a free government, and especially of a republican government, that no laws ought to be passed without the co-operation and consent of the representatives of the people, and that these representatives should be chosen by themselves without the intervention of any other functionaries to intercept or vary their responsibility."

This was the account given by the great American jurist of the constitution of his country, previous to the revolution; and it was a direct and authoritative contradiction of the assertion made by the Earl Grey that his scheme of double election was at all similar to that which existed in the British colonies in America. Speaking of the advantages of this system of direct representation, as applied to the election of the members of the lower House of Congress, Mr. Justice Storey has the following most conclusive arguments:

"The choice, too, is to be made immediately by them, so that the power is direct, the influence direct, and the responsibility direct. If any intermediate agency had been adopted, such as a choice through an electoral college, or by official personages, or by select and specially qualified functionaries *pro hâc vice*, it is obvious that the dependence of the representative upon the people, and the responsibility to them, would have been far less felt, and far more obstructed. Influence would have naturally grown up with patronage; and here, as in many other cases, the legal maxim would have applied, *causa proxima, non remota, spectatur.* The select body would have been at once the patrons and the guides of the representative, and the people themselves have become the instruments of subverting their own rights and power. The indirect advantages from this immediate agency of the people in the choice of their representatives are of incalculable benefit, and deserve a brief mention in this place, because they furnish us with matter for most serious reflection, in regard to the actual operation and influences of republican governments. In the first place, the right confers an additional sense of personal dignity and duty upon the mass of the people. It gives a strong direction to the education, studies, and pursuits of the whole community. It enlarges the sphere of action, and contributes, in a high degree, to the formation of the public manners and national character. It procures to the common people courtesy and sympathy from their superiors, and diffuses a common confidence as well as a common interest through all the ranks of society. It awakens a desire to examine, and sift, and debate all public proceedings, and thus nourishes a lively curiosity to acquire knowledge, and at the same time furnishes the means of gratifying it. The proceedings and debates of the legislature, the conduct of public officers from the highest to the lowest, the character and conduct of the executive and his ministers, the struggles, intrigues, and conduct of different parties, and the discussion of the great public measures and questions which agitate and divide the community, are not only freely canvassed, and thus improve and elevate conversation, but they gradually furnish the mind with safe and solid materials for judgment upon all public affairs, and check that impetuosity and rashness to which sudden impulses might otherwise lead the people when they are artfully misguided by selfish demagogues, and plausible schemes of change."

No person could read that reasoning without being convinced of its propriety; but what did Earl Grey's constitution propose to do? to take away the elective franchise, to give them no control over the legislature, except by electing district councillors, to make the representatives, not responsible to the people or to the Councils, for such would be the effect. He would refer to another authority on this point, and one which would always guide them aright in constitutional matters, the authority of Edmund Burke:—

"With you there is little or rather no connexion between the last representative and the first constituent. The member who goes to the National Assembly is not chosen by the people, nor accountable to them. There are three elections before he is chosen; two sets of magistracy intervene between him and the primary assembly, so as to render him, as I have said, an ambassador of a state, and not the representative of the people within a state. By this the whole spirit of the election is changed; nor can any corrective which your constitution-mongers have devised render him anything else than what he is. The very attempt to do it would inevitably introduce a confusion if possible more horrid than the present. There is no way to make a connexion between the original constituent and the representative, but by the circuitous means which may lead the candidate to apply in the first instance to the primary electors, in order, that by their authoritative instructions (and something more perhaps), these primary electors may force the two succeeding bodies of electors to make a choice agreeable to their wishes. But this would plainly subvert the whole scheme. It would be to plunge them back into that tumult and confusion of popular election, which, by their interposed gradation of elections, they mean to avoid, and at length to risk the whole fortune of the state, with those who have the least knowledge of it, and the least interest in it. This is a perpetual dilemma into which they are thrown by the vicious, weak, and contradictory principles they have chosen. Unless the people break up and level this gradation, it is plain that they do not at all substantially elect to the assembly; indeed they elect as little in appearance as reality. What is it we all seek for in an election? To answer its real purposes you must first possess the means of knowing the fitness of your man; and then you must retain some hold upon him by personal obligation or dependence. For what end are these primary electors complimented or rather mocked with a choice? They can never know anything of the qualities of him that is to serve them, nor has he any obligation whatsoever to them. Of all the powers unfit to be delegated by those who have any real means of judging, that most peculiarly unfit is what relates to a personal choice.

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In case of abuse, that body of primary electors never can call the representative to an account for his conduct. He is too far removed from them in the chain of representation." Encl. 2, in No. 3.

And a little further on the same great statesman adds thus—

"As in the end all the members of this elective constitution are equally fugitive. and exist only for the election, they may be no longer the same persons who had chosen him to whom he is to be responsible when he solicits for a renewal of his trust. To call all the secondary electors of the commune to account is ridiculous, impracticable, and unjust; they may themselves have been deceived in their choice as the third set of electors, those of the department may be in theirs. In your elections responsibility cannot exist."

There was one other fact to which he wished to allude, and it was the remarkable fact, that this measure, worse than the rotten borough system at its height, was proposed by the son of a statesman, who for more than half a century battled, and battled successfully at last, to abolish these rotten corporations. With these remarks, he begged to second the resolution. (Cheers.)

Mr. Hipkiss, as one of the humbler classes, would beg to say a few words on the resolution. He was not going to oppose it, for he objected to the measure of Earl Grey, and agreed in most of what had fallen from the gentlemen who preceded him, but as his objections took rather a different shape, he wished to express them. (Cheers.) He objected to it because it would do evil to England, for it never could be carried out. To attempt the constitution of an assembly to legislate for a variety of colonies, whose interests were totally distinct, would give rise not only to endless dissension and jealousies, but must terminate fatally to the colonial empire of Great Britain. (Cheers.) The measure was the child of the French revolution. The same system had revolutionized France, and he warned them that it must eventually lead to revolution here. (Cheers.) It was little matter to him whether the measure was adopted or not; long before its results could be seen he should be dust and ashes, but he warned them to resist this measure to the utmost, if they would preserve their constitutional liberty, and avert the horrors of revolution. The measure would be fatal to the colonists, and God send it might not be carried out. (Cheers.)

The resolution was then put and passed unanimously.

Mr. S. A. Donaldson should approach the duty which had been allotted to him with much fear, did he not know how ably he should be backed by the gentleman who had been appointed to second it—their tried representative, Mr. C. Wentworth. (Cheers.) Feeling, however, perfect confidence in the manner he should be supported, and equally confident of the voice of the meeting going in favour of the resolution, he advanced boldly to the charge, in the true spirit of British soldiers, looking not on the foe before him, so long as he could rely on the rear guard. With regard to the few observations he had to make, he regretted to detain the meeting for a few moments, but would promise to be as brief as possible, and to put his remarks into plain language. In order to make these remarks intelligible, he would read the resolution he had to move. It was as follows:

"That the proposed measure will have the effect of depriving the colonists of the elective franchise, which we maintain to be our inalienable right as British subjects."

It would be seen that in the consideration of this resolution, two points arose: first, the effect of this measure in depriving them of the elective franchise; and, secondly, that such franchise was their inalienable right. Before proceeding to consider these points, it would perhaps be well to see what was the meaning of the word franchise; "to enfranchise" was to make free, and therefore the word "franchise" was the synonym to liberty. Every British subject, high or low, rich or poor, was therefore born with a right to this franchise, which no one, not even Parliament itself, could take from him, and which was limited only by the power which created it, and which had fixed on a certain recognised social position as the only qualification necessary to its possession, and possessed of this qualification every man in Great Britain had a right to enter upon the enjoyment of it. Every individual man who has attained that social position, is as capable of enjoying that right equally with the highest and wealthiest of the realm. It is as free to him as the air he breathes, and such social positton may, by honest industry, actuated by a noble desire to obtain this privilege, be attained by the most miserable. As he had before stated, the right once enjoyed could not be taken from any British subject, even by Parliament itself, without his own consent; because, although it might be said, and he would concede it for the sake of argument, that Parliament might commit an act unconstitutional in itself, they might rest assured they would be unable to carry any such act into effect. The pressure from without, the feeling of awakened resistance to any infringement on constitutional rights, would be too strong to admit of it for a moment, and the voice of the people whom that Parliament was sent to represent would put a stop to it before any such Bill could be passed into law. The Parliament of England who would consent to such a measure would cease to exist before they could perpetuate it without the consent of the electors themselves. Now they had only to import this same argument from Great Britain to Australia. Every British subject resident in Australia, whether born in Great Britain, or born of British family here, was born with the same right as any British subject at home. This, he hoped, was not denied, for the Parliament of England had themselves recognised that right, and had fixed the social position at which the colonist may exercise that right, a right which he has already enjoyed

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and exercised. (Cheers.) He would therefore assert, and assert it boldly, that having enjoyed this right, of which Parliament, powerful, aye, nearly supreme as it is, could not, and dare not, attempt to deprive the meanest English subject, could not take from them that right, without an appeal to themselves. (Cheers.) They must first obtain the consent of the colonists, either by a direct appeal, or through their representatives. He repeated they could not do this lawfully, by the strong hand they might deprive them of their rights, might force this measure upon them, as they might commit any other act of oppression, in the way, in fact, in which almost every act of colonial legislation had been managed at home. The Minister might go down to the House, and propose, and read, and pass any Bill into law which the Parliament neither knew nor cared anything about, passing it, indeed, as in the case of the Act under which the Legislative Council of the colony was granted, in a house not numbering 40 members. (Cheers.) He must again repeat it, the measure, if passed, would be opposed to the spirit of the constitution, and would not be law. If passed it would be to the prejudice of rights already granted, which they had an inalienable and indefeasible claim to. It would be an invasion of their privileges, of their constitutional liberties, to which they must be lost to all pride, dead to all feeling, sunk to the lowest depths of political wretchedness, if they could submit without a manful, straightforward, and British protest and remonstrance against a measure so iniquitous. The very people from whom they sprung would reproach and condemn for base subserviency if they were silent on such an occasion as this. If this disgusting, this disgraceful law, should pass, let it die; but let them not be any parties to their own degradation. The electors' franchise, which it was now proposed to take from them, was, as stated in the resolution he held in his hand, their inalienable right as British subjects. It was their inalienable right, and let no man forget the proud distinction which attaches to its enjoyment—the connexion which he prayed to God might never be disowned between themselves and the mother country. That connexion, the glory of their origin, they would deserve to lose, if they did not speak up fearlessly for the rights and privileges which for ever belong to it. (Cheers.) One of the gentlemen who had preceded him, had alluded to the political education of the colony. Truly had he informed them that step by step had they attained their present position. That the concessions which had been made, had been wrung from the home Government only by constant application. But where they had attained the elective franchise, where they had shown how justly they appreciated its value, the use they had made of it, they had a right to expect that unlimited control of public praise would have been conceded to their representatives, and that the next step on the forward path would have been the abandonment of the schedules. Far, far different, however, was the case. Instead of abandoning the schedules, the present measure proposed to cut away from beneath the fraction of political liberty they had already obtained, to take back in 1848 that which was granted in 1842. It had been suggested that this measure did not emanate from the Minister. That it had arisen from the suggestions of one, who, though since dead, whilst presiding over the government of the colony, had exhibited a constant predilection for these impracticable institutions of District Councils. He would fain walk tenderly over the grave of the high-minded and the great—would deal gently with departed talent; but let them not forget that they too had their martyr in the strife which that predilection caused. But a few short weeks ago, and they had laid in the grave one who had been the unflinching champion of their rights—who had never been absent from his post; but had battled inch by inch for that freedom which they had now gathered together to protect. (Cheers.) His services in the cause of freedom would not be forgotten. He had passed away, but the memory of his exertions, his labours, his fearless zeal, would never be effaced from the heart of his country; and when in the successful termination of the struggle in which they were engaged—when in the atmosphere of constitutional freedom the colony should wax great and powerful, in her hall of archives, adorned by the effigies of the illustrious dead, a proud niche would be found for the honoured bust of Richard Windeyer. (A burst of most enthusiastic cheering followed the mention of Mr. Windeyer's name.) The proposal of double election would deprive them of the right of the elective franchise. On this part of the question he was obliged to generalize very much; for the studied reserve which characterized all official communications, had precluded the Right Honourable the Secretary of State from fully enlightening them as to the particular infliction under which they were to suffer. But as the main ingredient in the change was directly pointed out, and as they knew from the published particulars of the neighbouring island of New Zealand that the plan of Lord Grey was to work by the odious system of double election, it would be sufficient for his argument, to show how this would involve the withdrawal of the franchise which they now enjoyed, and which he trusted he had succeeded in showing they enjoyed as a right. Here he would appeal to those who worked; those whom he looked upon as the thews and sinews of the social body; and he would adjure them not to be misled and deceived by the specious seeming and sophistries of any one who might attempt to persuade them that they would have greater power and influence in the proposed changes. They would have less, for they would lose all control over their representatives, who would be responsible only to the members of those district councils who returned them. The nature of the colony too, its scattered population, rendered it totally unfit for the establishment of district councils. In a country with a concentrated population such municipalities might work, but even then the grounds to choose a representative for the purpose of making local improvements, were entirely different from those which should induce them to elect a representative law-maker. Again, the infallible result of such a close-borough system must be that bribery and all sorts of corrupt influence would be brought to bear on elections,

elections, with all their concomitant degradation and misery. Slavery instead of freedom, anarchy instead of peace, retrogression instead of improvement, would pervade. It was their duty to make a stand, a firm stand, against the odious measure. They had been told of the high-minded sentiments, the noble words which had been spoken in the House of Lords on the subject of colonization. He admitted these words were noble, but practically he feared their effect would be lost before they reached New South Wales. Like the stone dropped into the centre of a calm lagoon, they knew that by a law of nature the expanding circles would extend to the very shores of the lake, but in so gentle a manner that they were seen and unnoticed. The blast of the trumpet which sounded to the charge would vibrate through the realms of space; but the distant vibrations were not audible to human ear, and generous and high minded as the principles laid down in the colonization report undoubtedly were, he feared they would scarcely reach this colony. It was, however, to make a firm appeal against this measure, and the promptitude with which all classes of the inhabitants of Sydney had come forward to assert their rights would find a response in the distant districts. Petitions from all quarters would pour in, and when the universal feeling was full and firmly expressed, he trusted the appeal would not be made in vain. (Loud cheering.)

Mr. Wentworth rose to second the resolution, and was received with loud cheers. In appearing before them, he could not but express his gratification at the warmth of his reception amongst them. It showed him that, however in some quarters the course he had adopted on some occasions had been disapproved, that they at least gave him credit for sincerity and honesty of intention. (Cheers.) In common with many other members of the Council, he had felt some reluctance to take any part in these proceedings, because the proposed measure being clearly intended as an attack on the Legislative Council, to reduce its powers, any opposition arising from its members might be received with suspicion by Her Majesty's Ministers, and would have but little weight. They would recollect that in the words of the despatch, it was said the Council usurped all the power of the colony, and the object of the proposed measure was avowedly to reduce that power. But when he saw that meeting, thronged as it was with thousands of all classes and shades of opinion; when he saw them with one voice repudiating this charge, he felt that as units they might without suspicion join in their deprecation of the injustice about to be committed upon them. He denied the assertion of Lord Grey, that the Council had usurped any power. The Council had done its best to ameliorate the condition of the colony, and to give it a larger share of political freedom; but little had it succeeded in doing. They had sent home petitions and addresses, and lists of grievances on all subjects; but when the power of the Council was talked of, which of all these grievances had been redressed? Not a single one. But it was absurd to talk of the power of the Council as long as it had not the control of the public purse. What could its puny efforts do, when, without its consent, the Government could take a sum of 82,000*l.* for payment of its officers? True, if the Council had been insane enough, had so far forgotten the interests of their constituents, they might have embarrassed the Government by stopping the supplies; but the sole sufferers would have been the community, as the payment of the salaries of the Government would have gone on the same as ever. It has been objected to the Council by the Minister, that it had not put the district councils into operation. If that was the objection, why did not the English Government give life to these bodies, instead of leaving it to the legislative council, whose duty it was to refuse to give them vitality against the unanimous wish of the people? With what show of wisdom and prudence could the legislature have put in operation a new system of taxation when the colony was already burdened with imposts to a greater extent than any other country in the world? Was it not enough that a colony containing about 200,000 persons should be taxed to the extent of 300,000*l.*? No doubt, to have burdened the country to the extent of some 40,000*l.* or 50,000*l.* more would have been very acceptable to the Government; but where was the good of imposing taxes when men had not a shilling to pay, and the result of which must have been the confiscation to the Crown of all the lands on which they were levied? (Cheers.) There was one peculiarity in the despatch of Lord Grey, which was the passage in which he speaks of the anxiety of the public mind in the Australian colonies as to these new arrangements. Now he must confess for his own part, that he should like to know in what quarter this anxiety existed. He had never heard that any such change was in contemplation, until enlightened by Lord Grey's despatch. In what shape or manner the anxiety had been displayed it would be difficult to say. Where were the petitions which had gone home on the subject for any alterations in the constitution of the Council? True, it might be that some difference of opinion did exist as to the formation of another house, but he knew of no absorbing interest taken in the question. The only objection he had to the present Council was, that it did not possess power enough. That the restrictions by which it was surrounded, were such as rendered it powerless for good, and potent for evil. (Cheers.) If the schedules were withdrawn, then the people, through their representatives, would have some power, and this was the only change he would advocate in the present constitution, besides those recommended in the Report of the General Grievance Committee. It appeared to him that the suggestions as to the origin of this measure were well founded. That it had arisen out of the representations of the Governor, when he found in his numerous encounters with the Council that it was strong enough to successfully resist measures which it believed to be detrimental to the interests of the colony, but which that Government obstinately persisted in forcing upon it. Finding himself foiled in this, and that he could not always carry into effect the wishes or instructions of the Secretary of State, he must have made proposals which the Minister

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was induced to accept, in order to make the Council subordinate to the Government, and this was the beautiful scheme they had concocted. The effect of this measure would be to deprive them of the right of franchise, but he hoped the people of New South Wales would not submit to be despoiled thus of their inalienable birthright. The right of franchise had always existed in the Anglo-Saxon constitution, and was clearly traceable therein for at least 1,000 years. It was confirmed in the great charter of Great Britain, and in 20 subsequent charters, and finally in the Petition of Rights, and Bill of Rights at the Revolution. (Cheers.) It was too a principle that the rights which these charters conferred on British subjects should be carried by them into all colonies planted by Great Britain; and therefore this audacious attempt to take from them the right of the elective franchise was nothing less than a gross invasion of their constitutional rights. They had constitutional rights to this privilege, and though Parliament have been powerful enough to withhold it so long, it had not any lawful right to do so. (Cheers.) He was glad to find this attempt of the Minister so unanimously resisted by all classes. It would prove to that Minister that the people of New South Wales were not dead to a sense of their rights; that they wanted not his change, and prove by their remonstrances now that they never would accept any change unless asked for by themselves. (Cheers.) He looked with peculiar suspicion on this specious boon, which the Minister so spontaneously offered to the colony. He was firmly convinced that there must be some sinister motive at the bottom of it. They had never found the Colonial Office so ready to concede boons when asked, as to be deluded into the belief that they had now commenced to grant them of their own accord. He did not believe there was any good in it on this ground alone—that if there had been it would never have been offered. The right of franchise they had to importune for for more than 20 years, and now they had got it it was found to work too well for the Minister at home, to surely effect the ends for which the glorious privilege was designed, and so forsooth they would take it from them to give them something they did not want, and had not asked for. The constitution, as proposed by Earl Grey, portended the most disastrous effects. It would result in the same spirit of despotism, of unrestrained bribery and corruption, which existed in France, where the members of the legislature were elected by the electoral colleges, instead of the mass of the people. Who could doubt the corruptions of a system which took the elective franchise from the thousands, who exercised it, to vest it in some 200 persons, who could at all times be brought under the influence of the Government, and over whom the people would have no sort of control? The same system in France, where the elective privilege was enjoyed by only about 180,000 out of a population of about 40,000,000, had involved the grossest corruptions and abuses. A system of bribes prevailed by which the Government, with the means at its command, could always secure a majority in order that they might do as they liked with France, and they did do as they liked with that unhappy country. This measure would lead to the same results; it was founded on the same principle, and he warned them not to be deluded by it, but to scout it. To tell the Minister formally and boldly that they love their constitutional freedom too well not to abhor his measure, and that they will have none of it. (Loud and continued cheers.)

The resolution was passed unanimously.

Mr. *Michie*.—If a prize had been offered for a plan for effectually enslaving a community, by some illusory proposition of concession of popular rights, he believed that Earl Grey would in this measure of his have carried off that prize. (Cheers and great laughter.) When he (Mr. Michie) left London he had a vote for that city, and it was now proposed to take away that right, of which, if any Government or Parliament attempted to deprive the meanest citizen there, the empire would rise as one man to resist and punish the base design. (Cheers.) It was said by some of the preceding speakers that there were parts of the despatch which should be touched tenderly, as there might be differences of opinion about them; he was actuated by no such scruples. He could see no part of this most notable scheme which was not most unwise and most wicked and unjust, and therefore in the few remarks he had to make he should not feel called upon to approach with bated breath anything that had emanated from his Lordship. (Cheers.) The whole scope and drift of the scheme was, that the inhabitants of New South Wales should have no vote in the election of their representatives, except through the medium of those district councils. That these impracticable municipalities were to be the only means by which the voice of the people could be brought to bear upon the legislature, and the members of these bodies the only persons in the community to whom it would be safe to intrust this duty of election. (Cheers.) Now what was the occasion of this change? It had been suggested that the Council as at present possessed too much power. Whatever power they might possess, it did not seem as yet that they had ill-used it, or that the colonists were at all dissatisfied. But if, in the infancy of free legislative institutions in the colony, that legislature should be somewhat crude, rash, or incautious, who could suffer by it but the colony; who so interested in trying to cure the defects in it as the colonists alone affected by it? Are the colonists so void of common sense and intelligence as not to be able to see whether a scheme of legislation works beneficially or not. While, then, they had tried the present constitution they found it work well; they found no fault with it, they asked no change in it, and why fly to this system of district councils? Why turn from the smaller evils of our present condition, "to fly to others that we know not of?" (Cheers.) But the district councils and the annihilation of the elective franchise were not all. This would not be a sufficient restriction on popular influence, and so they must have a Legislative Council of Crown nominees to sustain the Government influence. But where were the materials to come from in a colony like this? Was it supposed for a moment that such a body would be in any way analogous

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to the House of Lords? Where would they find learned lords to guide their decisions? Where would they find any 15 judges to direct their councils? These elements would be entirely wanting. What substitute would they find for them? He should propose that such an assembly should consist of the entire city magistracy, (roars of laughter,) and perhaps to make the thing complete, they should have the judge of the Court of Requests sitting on a woolsack as a substitute for the Lord Chancellor. This was the scheme dished up for New South Wales; this gross piece of political quackery. He intensely abhorred quacks of every description, whether they were quacks medical, quacks legal, or quacks political. But of all quack schemes never was one that equalled this. He looked upon it as a kind of political Holloway's pill, (great laughter,) which Doctor Grey was to administer to cure all the diseases, including the excess of power of the Council, under which the colony laboured. They would see the colony figuring morning after morning as a kind of set-off to the Earl of Aldborough. "New South Wales cured by Grey's Holloway's Pills, administered with the District Council Ointment." (Great laughter.) He did at first pause whether it were not useless to take any measure of resistance, as he questioned whether they might already be politically defunct; but more mature reflection had convinced him, that standing as they did, as it were between life and death, it was their duty to come forward energetically and determinedly, in order that it might not be thrown in the teeth of those good men and true who would have to fight their battle on the floor of Parliament, that they had not sought to avert this evil. The Minister of England knew very well that the people of New South Wales knew their rights very well, and if they neglected to petition and protest and remonstrate, it would be argued that either they understood this measure, and accepted it, with all its evils; or that knowing them, and anxious to avert them, they were content politically to die, and make no sign. True, they might at present be a kind of political ghost, but it might be the bill had not yet passed. They knew that a Whig Ministry was in; but they also knew that Whig Ministries of late years had been very short lived; and if Mr. Gladstone should have returned to power, after the unceremonious manner in which his new settlement of North Australia had been disposed of, he would not be likely to be over tender in slaughtering these little innocents of District Councils of my Lord Grey. (Cheers, and great laughter.) But whatever the political squabbles of Ministers might be, it was at least a comfortable reflection that when Whigs and Tories fell out patient and suffering people got their own. The resolution he had to propose was —

"That in consequence of the dispersion of a large portion of the inhabitants of this colony, any measure establishing municipalities similar in principle to the District Councils, attempted to be created by the Act of Parliament, 5 & 6 Vict. c. 76, would be so repugnant to the wishes, and so adverse to the interests of this community, that it is utterly impossible that it could ever be brought into effective operation."

Dr. Wallace seconded the resolution.

Mr. Oakes felt it his duty to come forward to make some observations on the reflections that had fallen from some of the speakers in reference to district ouncils, particularly that of Parramatta, of which he was a member. (Great laughter.) It was not true that the Parramatta District Council had done no good. It had done a great deal of good. (Cries of sit down, and go back.) It had not only expended money, (tremendous laughter,) but it had spent it well and advantageously to the district. But although he felt bound to stand up for the District Council of Parramatta, he no more approved of the present measure than any one present, and should most strenuously resist it. The District Council at Parramatta had done their duty; but they were not fit to be trusted with the election of members of Legislative Council. (Cheers.)

The motion was then put and carried unanimously.

Mr. James Macarthur would endeavour to compress the observations he had to make into the least possible space, as he saw the meeting was getting rather impatient, and the hour too was growing late, the resolution he had to move was as follows:

"That the colonists protest against being thus made the subject of theoretical experiments in legislation, and are anxious to enjoy a form of government founded as nearly as circumstances will admit upon the principles of the British Constitution."

This resolution enumerated two distinct propositions, both of which he intensely felt the importance of—he contended, and would ever contend most zealously, that every British subject had a right to enjoy those constitutional privileges which had at all times been so dear to Englishmen. Though an Australian by birth, he felt that he had a right to stand there and lift up his voice to denounce this most fatal measure. He had a right to reflect back upon the parent country, the ignominy and the shame she would inflict upon Australia in daring to offer such a scheme for enslaving her—aye, a prouder right than had any noble peer who could consent to such a proposition. He cared not whether this scheme emanated from a Grey or from any one else, but he protested indignantly against it as a flagrant breach of British law. The constitutions of all the colonies contain provisions that the local legislatures should not pass any Act repugnant to British law. How, then, could any minister attempt to insult this colony with an Act, by which the first and highest principle of the British constitution would be violated? He, however, laid not all the blame of this atrocious measure to Earl Grey, although as colonial minister he had affixed his name to the despatch, and of course must be held responsible for it. There was, as they all knew well, a behind-the-scene influence in

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in Downing-street, where a Mr. Nobody or a Mr. Somebody were all-powerful, and who, foisting measures, to serve his own purposes, on the Minister, then left him to fight his dirty battles for him. He did not believe that Sir George Gipps had been the author of the measure, although it might be from his pre-conceived impressions formed in Canada he might have strong prepossessions in favour of these district councils. But though a system of municipalities might be very well suited to Canada and the American colonies, although he had never been able to find anything analogous in the American municipal institutions to those councils, they would be utterly impracticable here. It would be impossible to work them even under the present Act, for less under the much worse proposition of Earl Grey. It has been urged by Mr. Oakes, that the Parramatta council had worked well, but he must say that he agreed with Mr. Martin, that it had not performed any of the functions for which it was designed. It was true it had effected much good by spending money derived from tolls, and which must have been spent by some one, better than it had ever been spent before. But it was impossible to find in America, or any other colonies, any such bodies as were proposed to be formed under this measure, and endowed with the sole power of electing members to the Legislature. Mr. Martin had quoted from Storey, the very highest authority, from which they found that the principle did not exist, and never did exist. In addition to the authority already quoted, he would read an extract or two that would confirm them, and show the folly and danger of constructing constitutions on mere theoretical principles. He quoted from Chalmers' Annals of the United Colonies of America :—

"Lord Baltimore, the father of his province, having lived to enjoy what few men ever possess, the fruit of the tree which his own hands had planted and watered, died in the beginning of 1676, covered with age and reputation, in the 44th year of his government. Too honest a man to scatter the idle theories of the projector among the million, he published no scheme of ideal commonwealths to delude his followers; and too wise not to mark the solid texture and excellent balance of the English constitution, he resolved to build upon its plan and to rear that of Maryland with all possible consimilarity.

"After a few gradual changes, proceeding from the increase of population and alteration of circumstances, that form was soon established which has happily continued to the present time (1780). In the Governor, the Council, and House of Representatives, we see the King, the Lords, and Commons of England in miniature."

He should be glad to see two houses erected when they were fit for it; the principle he thought a piece of justice, but they were not fit for it yet. They had no materials for an upper house, and could not have for very long to come. In the same author he found the following, in relation to the constitution of South Carolina, and Pennsylvania, and also of Maryland :—

"Thus at the end of 23 years finished the labours of Locke, thus was abrogated upon the requisition of the Carolinians, who had scarcely known one day of real enjoyment, a system of laws intended to remain for ever sacred, but which far from having answered their end, introduced only dissatisfaction and disorder.

"The Carolinian annals show all projectors the vanity of attempting to make laws for a people, whose voice proceeding from their principles, must ever be the supreme law."

"The theoretical frame of Government introduced by Penn, underwent a similar fate to the no less impracticable constitutions of Locke. It was at once found inapplicable to the condition of the colony, and after a variety of alterations, which did not amend it, it was at length wholly laid aside, and a simpler form established. What happened to both, offer this instructive lesson to mankind—to be content with the principles handed down to them by their fathers, and to be cautious how they remove ancient foundations, in their eagerness to adopt the speculations of theorists."

"The constitution of Maryland was simple, and therefore solid and durable. Under it the people enjoyed repose to the period of the American Revolution. Those of Pennsylvania and Carolina were too theoretical to be practicable, too flimsy to prove lasting, too complicated to work harmoniously; yet what did honour to the good sense of Calont, has conferred no celebrity on his name, whilst that which was too wild and speculative to be useful, has acquired the praise and approbation of philosophers."

He had already adverted to one principle of colonial legislation, that it must not be repugnant to English law, but there were other principles which in the present measure seemed to be entirely lost sight, and in relation to which he would cite the eminent authority of Mr. Justice Halliburton :

"To what extent the British Parliament has a right to interpose its authority, or how far the power of the Colonial Assembly extends, it is impossible to ascertain with accuracy. The doctrine of the competence of the one and the independence of the other has at different times been pushed to the extreme by the advocates of each. The true distinction appears to be that Parliament is supreme in all external, and the Colonial Assembly in all internal matters. The unalterable right of property has been guaranteed to the colonies by the Act renouncing the claim of taxation, the 18th Geo. 3. * * * Taxation is ours, commercial regulation is theirs; this distinction, says a distinguished statesman, is involved in the abstract nature of things. Property is private, individual, abstract; and it is contrary to the principles of natural and civil liberty that a man should be divested of any part of his property without his consent. Trade is a complicated and extended consideration;

tion; to regulate the numberless movements of its several parts, and to combine them in one harmonious effect for the good of the whole, requires the superintending wisdom and energy of the supreme power of the empire. The colonist acknowledges this supremacy in all things, with the exception of taxation and of legislation in those matters of internal government to which the Local Assemblies are competent. * * * But in matters of a local nature the Imperial control is well secured by the negative of the Governor; by his standing instructions not to give his assent to any law of a doubtful nature without a clause suspending its operations until the King's pleasure be known, and by the power assumed and exercised of disagreeing to any law within three years after it had passed the colonial legislature. With these provisoes it is absurd to suppose, whatever may be said to the contrary, that the local assemblies are not supreme within their own jurisdiction; or that a people can be subject to two different legislatures exercising at the same time equal powers, yet not communicating with each other, nor from their situation capable of being privy to each other's proceedings. Encl. 2, in No. 3.

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"I have already observed that the true line is, that Parliament is supreme in all external, and the colonial assemblies in all internal legislation; and that the colonies have a right to be governed within their own jurisdiction by their own laws, made by their own internal will. But if the colonies exceed their peculiar limits, form other alliances, or refuse obedience to the general laws for the regulation of commerce or external government, in these cases there must necessarily be a coercive power lodged somewhere, and it cannot be lodged more safely for the empire at large than in Parliament, which has an undoubted right to exercise it in such cases of necessity."

From this authority it will be seen that in all matters relating to themselves they are the right persons to judge of what is best for them; and surely in a question of this sort, the bearings of which must be governed so entirely by the internal circumstances of the colony, there could be no doubt that the colonists were the best judges. Another objection to this system of District Councils was, that in giving them the power of double election, the little good that was previously in them would be destroyed, and they would become the mere instruments of all sorts of mischief. It filled him with indignation to see an attempt at speculative legislation of this sort attempted to be foisted on this colony. He said this not in bitterness of spirit, but he trusted that the colony would stand firm and protest against this measure. That they would send their remonstrances and memorials to Her Majesty's Government, to prevent vitality ever being given to this measure. As for the after destiny of the colony, he had no doubt that it would be a bright one; that a long and glorious career was reserved for it; but as an Australian, on the part of the colony, he entered his deep and solemn protest against this attempt to subvert its constitutional liberties.

Mr. Lowe rose to second the resolution, and was received with deafening cheers from all parts of the house. He had no authority to read to them, but he had one to cite. He spoke to their feelings as men, as British men, and it needed not that he should read his authority to them, for he well knew that there was not a man in the assembly who had not the authority on which he stood graven upon his heart. That authority was the British constitution. (Tremendous cheers.) He would not refer to any of the constitutions made up on speculation by rash politicians, scheming experimentalists, speculative empirics, crack-brained philosophers, or witty schoolmen; but he referred to that great and noble constitution, the bulwark of English liberty and English rights, which had ripened with time, and grown with the growth of ages, beneath the jealous and fostering care of the wisdom and experience of great and learned men. That constitution which with the lapse of time was stable as the hills, and was justly their pride and honour, and which in its guardianship of the liberties of the subject had become the joy, the pride, the emulation of the universe. (Cheers.) The resolution he was called upon to second wished to assimilate the constitution of this colony to that of the parent land, and if there was a man among them who refused to assent to it, he would tell him with scorn and contempt he was unworthy of the name of freeman. It was under this constitution that they had enjoyed since a period that could not be traced out, the glorious boon of living under laws made by the men elected by their own choice. This was the principle they were seeking to bring out here; this was the system which had been the cherished pride of the Anglo-Saxon race in all its wanderings; and this was the only intelligible principle of representation, and not the degraded, absurd, nonsensical scheme propounded by Earl Grey. Under this principle, if he were elected to represent any constituency, he should know what to do. He should explain his principles to his constituents, and if they approved of them they would return him; but under this atrocious scheme he could know only the 10 jobbers who sent him there, and protect their interests, to the injury of the 1,000 who might not want him at all. This was the constitution they were asked to accept as an extension of constitutional privileges —this miserable counterfeit, by which they were to be chiselled, cheated, choused out of their dearest constitutional right. (Cheers.) And how would this famous plan work—what would be its effect, but to give the Government an absolute control of the Legislature? With the means at the disposal of the Government, its immense revenues, places could be made, honours conferred on these district councillors to enlist them in favour of the Government, until the elected Legislature would cease even to represent their 10 constituents, but would become entirely subservient to the Government. (Cheers.) And what a position for a man of honour, education, and independence to represent such a body. Before he could descend to such degrading meanness, such grovelling servility as to become

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the delegate of these men, honour, education, and independence must be alike forgotten. He repeated, their delegate, not their representative; for the test of the support of one of these 10 jobbers would be, what could he do for his son Jack. The power would now all be given over to these 10 individuals, and never did an instance of such impolicy occur, that the power delegated was not grossly and systematically abused. (Cheers.) He had thought that it was the policy of good government to provide for peace and not for anarchy, to centralize, not to federalize. What would be thought of any such attempt to establish this local representation and this principle of double election in any of the counties in England? It was never attempted in England, or in any of the other colonies; but it was attempted here of all places, where, instead of the land belonging almost entirely to individuals, it nearly all vested in the Crown. Suppose such a system were introduced into Cornwall, there would be a general resistance, from fear of ruin. But here money was to be raised by taxation by these local bodies, to be expended in roads and bridges on Crown lands, in the effort to gull others to come out. There was another point—that the establishment of these local legislatures all over the country would give rise to confusion as to the jurisdiction, and endless dissension would be the consequence. As others had done, he had felt some doubt whether, as one of those oligarchs mentioned in the despatch, one of those aristocratic giants that grind everything here beneath foot, he ought or ought not to take any part in the proceedings. But when he saw a meeting like the present, which no power of any members of the Council or their deputies could have got together, he felt he was called upon to take this duty on himself. As for the approval or disapproval of the Colonial Office of the proceedings of the Council, he must say that, looking, as he did, at any of the persons connected with that office with the most unmitigated contempt, he felt their dislike of their proceeding to be an honour, and a proof in itself that they had fulfilled their duty to the colony and their constituents. He could only advise them, that should they ever have a Council on which the sun of Downing-street favour should shine, to take the earliest opportunity of packing such a Council about its business, as a set of dishonest traitors to the trust imposed in them. (Laughter and cheers.) Previous speakers had indulged in some speculation as to the origin of this proposed measure, and he might perhaps be permitted to give his own speculations on the point. When the Constitutional Act was passed, it was attempted to foist these district councils on the colony, except that the representatives of the people stepped in to stop these hell-hounds of confiscation. The Legislature would not vote these councils the power to levy rates, which would have had to be collected by the Government, perhaps at the point of the bayonet, and certainly to the utter ruin of the colony. The Downing-street people saw that the Legislature could discriminate the bad which was so mixed up with the good in the boon offered, and determined to have its will, they mixed up the bad with the good, so that neither could be accepted if both were not. They did what the tyrant of old did, they tied the living to the dead—fastened these inanimate corporations to the quick vitality of elective represen tation; and then, as Earl Grey proposed, insisted on their taking what they had before rejected. (Great cheers.) This was the way in which the Colonial Office played upon the feelings of the colonists, and trifled with their dearest rights and liberties. Because they had a spirit of independence—because they had feelings of veneration and love for the constitution of their forefathers, and which conferred on them the same privileges as an inalienable right, they were to be crushed by this measure, which either by force or fraud was to be foisted upon them. But if the colonists were of his mind, they would show the Minister that there was a limit beyond which the sluggish legislation of Downing-street could not pass. Although they might hear of their weakness, and relying on the strength of the irresponsible power they wielded, they might withdraw the present constitution, and they might inflict upon them the other—yet there was one thing they could not do—they could not make them accept the Act and act upon it. They might take the horse to the water, but they could not make him drink; they might tie the millstone round their necks, but they could not make them carry. They might pipe, but the colonists need not dance; and if they would be advised by him, they would leave this act, this damning proof of Colonial Office tyranny, to rot in its own loathsomeness—to put it from them as a thing accursed, and have no part whatever in working it. (Immense cheers.) If they were not indeed bastards to the race they sprung from, they would never become instruments to their own slavery and ruin; they would never, under any sufferings, any sacrifices, surrender that constitutional freedom, fought and bled for by their ancestors, and without which life, to an Englishman, must be a galling slavery. (Cheers.) He, for one, would show them an example, and would denounce as a traitor to his country, as a renegade from the spirit of freedom of his race, any person who should, by act or part, by electing, or suffering himself to be elected, assist in carrying out the provisions of this detestable measure. The colonial minister might send it, but the colonists might leave it to itself. (Cheers.) He disclaimed, in this instance, anything like the policy of making the best of it. Let them leave the wretched offspring of tyranny and indolence still-born—dead. (Cheers.) They had no power to resist this measure forcibly. It would, indeed, be idle for them to measure strength with the greatest power on earth. Out of their weakness grew their strength, they could passively resist, and let them leave this act to them altogether—let them, when they found that the colonists will not accept it, will not on any condition have anything to do with it, will not pollute their souls by putting any of its foul provisions into operation,—let them take their scheme back amidst the shouts of ridicule which shall reverberate through the empire at their ridiculous miscarriage. (Tremendous cheering.) He wished to be understood. He did not say this with any hope of averting the evil; he felt perfectly assured

assured in his own mind that the Act would pass, that they would have this slavish constitution forced upon them. He, however, would be no party to it. He would not stoop to be the thing into which my Lord Grey, or any other colonial minister, wished to make the representative of a British community. He repeated, he had made these observations not in hope, but with the view of pointing out a scheme by which the machinations of those who would enslave them might be defeated; and he would pray to that God who was always ready to succour an oppressed people, to grant them firmness and patience in the ruin that was impending over the colony, that they might not basely and infamously assist those who were conspiring to ruin it. (The honourable gentleman resumed his seat amidst tremendous cheering, which was continued for several minutes.) Encl. 2. in No. 3.

The resolution was then put and carried unanimously.

Mr. C. Kemp said, that those who had read Lord Grey's despatch would observe that the first half of it consisted of arguments respecting the proposed division of the colony, and the erection of Port Phillip into the colony of Victoria, and then followed these words:—

"Her Majesty's Government therefore hope, in the next Session of Parliament, to introduce a Bill for the division of New South Wales into two colonies, the northern of which would retain its present name, while the southern colony would, by Her Majesty's gracious permission, receive the name of the province of Victoria. The effect of this alteration would be to render inevitable some changes in the existing constitution of the northern Government. When detached from the southern districts, the existing system would cease, in many respects, to be appropriate and applicable to its new condition; and there appears also to be some particulars in which the practical operation of the present constitution proves that it might with advantage be revised."

After that, the despatch pointed out the various changes intended, and which had been dwelt upon by previous speakers. It would appear from this that the intended separation of the colony was put forward as the reason why these changes should be made at this particular time, and he had therefore to move the following resolution:—

"That the erection of Port Phillip into a separate colony affords no sufficient reasons for such innovations."

This might appear almost a truism, but for the reasons stated he conceived the resolution necessary. The fourth section of the Constitutional Act (5th and 6th Victoria, c. 76,) gives the Legislative Council of the colony power to increase the number of members, alter the electoral districts, and make new ones, the only proviso being that the proportion between the elected and nominated members shall remain as heretofore—two to one. All, therefore, that will be requisite when the district of Port Phillip ceases to belong to the colony will be for the Legislative Council to distribute the six members among the districts least represented, and the government would go on as at present.

Mr. Holden seconded the motion, which was carried unanimously.

Mr. Cape said, that as the many luminous addresses which they had heard in support of the previous resolutions, compassing nearly every topic to be considered by the meeting, had detained them to this late hour, he would not dwell upon the resolution now to be proposed.

"That the colonists are entitled to expect that no important alteration in the constitution which they enjoy shall be made without their previous assent."

The changes to which the colonies were so continually subject, from the succession of Secretaries and Under-Secretaries of State, were, with other events deeply affecting the interests of these communities, forming a history—the history of the colonies, which it was their duty to bear in mind. The moderation and loyalty of the people in this colony could not be doubted, when under a feeling of such excitement as that induced by the despatch of Earl Grey, the resolutions which had been passed so unanimously, as embodied in the petitions from the people, were only in accordance with the principles of the British constitution. And if unhappily this scheme should, without any reference to themselves, become law, it would be well that they had had this meeting, for though they may not alter the past, it would better prepare them for the future.

Mr. Thacker was proud of the humble duty that had been cast upon him of seconding the resolution. He concurred in all that it contained, and was indeed disposed to go even further, and to say that all alterations and amendments in their constitution should be made by themselves; and he felt so much the danger of trusting to irresponsible English legislation on the subject, that he had no hesitation in saying that he would rather trust his liberties to the most despotic government that ever existed, than to any gentleman at the head of the Colonial Office. (Cheers.)

The resolution was passed unanimously.

Mr. Alexander moved the 7th resolution as follows:

That the following petition, embodying the foregoing resolutions, be presented to Her Majesty the Queen and both Houses of Parliament.

Captain Rossi seconded the resolution: It was the first public meeting he had ever attended, but so deep was his horror of the scheme proposed by Earl Grey, that he had felt it is duty to come forward. He agreed with all that had been said concerning the measure; but there was one point which he wished to notice, in order that justice might be

Encl. 2, in No. 3.

be done to one who was now no more. It had been suggested by some speakers, that Sir George Gipps was the author, or had recommended this measure. Now, it had come to his knowledge a day or two ago, that a copy of this very Bill had been sent to Sir George Gipps by Earl Grey, then Lord Howick, with instructions to confer with Sir John Franklin, then Lieutenant-governor of Van Diemen's Land, as to the applicability of the measure to the circumstances of the colonies. The report that both sent home was, that it was not so. (Cheers.)

The resolution was then passed.

Mr. Edward Cox proposed the eighth resolution, as follows:

That the petition to Her Majesty the Queen be transmitted to his Excellency the Governor, that to the House of Lords to the Right Honourable Lord Monteagle, and that to the House of Commons to the Honourable Francis Scott, the Colonial Agent.

Dr. Bland seconded the resolution, which was carried.

Mr. Norton then proposed, and Captain Rossi seconded, that the Right Worshipful the Mayor do now leave the chair, and that the same be taken by Mr. James Macarthur.

The Mayor having left the chair, the thanks of the meeting for his able and impartial conduct whilst presiding over the meeting were voted and acknowledged.

The meeting broke up in the most orderly manner.

No. 4.

Earl Grey to Governor Sir C. FitzRoy.

—No. 4.—

(No. 133.)

COPY of a DESPATCH from Earl *Grey* to Governor Sir *Charles FitzRoy*.

Sir, Downing-street, 31 July 1848.

Page 6.

1. I HAVE to acknowledge your Despatch, No. 3, of the 6th of January last, in which you report the steps which you had taken to collect the opinions of the community over which you preside, in relation to the measures proposed by me in my Despatch of 31 July 1847, and also No. 31 of the 2d February last, enclosing a petition from a large number of the householders and inhabitants of Sydney and its vicinity, deprecating any change in the constitution of the colony which shall not have received the previous sanction of the colonists at large.

2. I can only repeat my expressions of sorrow for the calamitous events which rendered you unable to give that personal attention, which you would otherwise have been anxious to devote to the consideration of these important subjects, and at the same time assure you, that I feel every reason to be satisfied with the proceedings which you found it in your power to adopt.

3. I have given my best consideration to the representations thus addressed to me, and have delayed answering you for some time, in consequence of the expectation held out in your despatches of further petitions on the same subject, which have not yet arrived. My anxiety not to act without being fully in possession of the views of the inhabitants of New South Wales on the question of their future government, has thus caused a delay, which at the now advanced period of the Session, renders it impossible that any measure can be introduced into Parliament with a prospect of being carried through. It becomes therefore unavoidable to postpone legislation on this subject until next Session, when Her Majesty's Government will be prepared to undertake the task in full possession of all the available materials. Enough, however, has transpired to give me an insight into the general state of opinion among the colonists, and to enable me, in consequence, to state the outline of the measures which I am prepared to recommend.

4. I collect from the documents now before me, that the objections most strongly felt throughout the colony to the views propounded in my despatch, relate to the project of making the District Councils serve as constituent bodies to the Legislature; and, though in a less degree, to the division of the Legislature into an Assembly and a Council, according to the ordinary pattern of the governments of those colonies which derive their free institutions from Great Britain.

5. With regard to the first of these suggestions, I certainly continue to believe, that in colonies possessing an extensive territory it is highly desirable that the purely local affairs of different districts should be entrusted to the management of some local authority distinct from the general legislature, and that the surest method of preventing a conflict between such authority and the

No. 4.
Earl Grey to Governor Sir C. Fitz Roy.

the legislature, is to make the latter emanate from the former; but I can have no wish to impose upon the inhabitants of the colony a form of government not in their judgment suited to their wants, and to which they generally object, and shall therefore not think it necessary to advise the carrying of this proposal into execution.

6. With regard to the division of the legislature into Assembly and Council, your own opinion, founded, as you state, on long practical experience, that it would be a decided improvement upon the present form of the legislature in New South Wales, is one to which I have already stated my own adherence. Had, therefore, the general feeling of the colony responded in any degree to the views expressed by myself, I should have had no hesitation in advising Her Majesty's Government to lay before Parliament the measures necessary to accomplish the change. But it is not such a reform as I consider it to be at all incumbent on the Legislature at home to press on an unwilling, or even an indifferent people. Their interests will, I think, be better served by leaving in their own hands the power of effecting it, whenever they shall see reason to do so; nor am I insensible to the difficulty which might be found to exist, if not in the northern districts, at least in Port Phillip, in finding at first a sufficient number of persons, unconnected with Government, qualified and willing to act as nominated members of a separate Legislative Council.

7. Having premised thus much in answer to the observations contained in your Despatch and its Enclosures, I will proceed to state the measure which Her Majesty's Government have it in contemplation to introduce into Parliament, in order to effect at once the separation of Port Phillip from New South Wales, and certain ulterior objects which will be explained in the course of this despatch.

8. The Bill for this purpose will, in the first place, effect no change in the composition or authority of the Legislative Council of New South Wales, beyond such as are the necessary consequences of the separation.

9. It will also establish in Port Phillip a Legislature, similar in character to that which now exists in New South Wales.

10. It further appears to me advisable that the same Bill should contain provisions for the establishment of representative institutions in the colonies of Van Diemen's Land and South Australia. In the former the numbers of the convict population, and the strict discipline which it was necessary in consequence to maintain, have hitherto been regarded as presenting obstacles to the adoption of any system of self-government; but it now appears to me that such a measure ought no longer on this account to be delayed. In South Australia no such obstacles have ever existed, and the rapid advance of its population in numbers and in wealth and intelligence appears to indicate that the time has fully arrived when that province should take its place among the self-governing colonies of the British empire. I propose, therefore, that in both these colonies the principle of popular representation should be introduced, and that this should be effected by adding to their existing legislatures elective members bearing the same proportion to those nominated by the Crown, as in New South Wales. But as this form of Government, while upon the whole it may be the best adapted to present circumstances, is one which may admit of much modification and improvement under the suggestions of experience, and as the Australian communities are, in my opinion, fully competent to originate and to discuss for themselves any changes in this portion of their institutions, I have it further in contemplation to recommend that their respective Legislative Councils should have power to make such alterations in their own institutions as they may think expedient; subject, however, to the condition that no Ordinance which any such Legislative Council may pass for this purpose shall come into force until it shall have been specially confirmed by the Queen in Council, after being laid for one month before both Houses of Parliament. By this arrangement provision will, I trust, be made for accommodating the constitutions of these thriving colonies to the wants and the wishes of their inhabitants, while at the same time the necessary security will be taken against the introduction of rash and ill-considered changes.

11. There is another subject to which, in making the proposed arrangement, it will be necessary to advert. The communication by land between the districts of New South Wales and Port Phillip is already completely established; that of the latter, with South Australia, is becoming not inconsiderable; and, in

No. 4.
Earl Grey to Governor Sir C. Fitz Roy.

in the rapid progress of events in those advancing communities, the intercourse between them will yearly become more and more intimate and frequent. If, therefore, these three portions of the mainland of Australia should be placed under distinct and altogether independent legislatures, each exerting absolute authority as to the imposition of duties on goods imported, the almost inevitable result will be that such differences will grow up between the tariffs of the several colonies, as will render it necessary to establish lines of internal custom-houses on the frontiers of each. The extreme inconvenience and loss which each community would sustain from such measures needs no explanation; it will therefore be absolutely necessary to adopt some means of providing for that uniformity in their commercial policy which is necessary, in order to give free scope for the development of their great natural resources, and for the increase of their trade. In what manner this may best be accomplished is a question of some difficulty, which I must reserve for more mature consideration.

12. I regret the delay which has occurred (although from causes independent of Her Majesty's Government), in carrying into effect this necessary and urgently required measure; but the time lost will not be regretted, if the consequence of that delay should be the framing of a measure more complete in all its parts, and more in accordance with the now ascertained views of the Australian community, than could have been the case if legislation had been attempted during the present Session of Parliament.

I have, &c.
(signed) *Grey.*

— No. 5. —

(No. 36.)

No. 5.
Earl Grey to the Lieut.-governor of South Australia.

COPY of a DESPATCH from Earl *Grey* to the Lieutenant-Governor of *South Australia.*

31 July 1848.
No. 133, p. 44.

Sir, Downing-street, 3 August 1848.

I TRANSMIT to you herewith, for your information and guidance, a copy of a despatch which I have addressed to the Governor of New South Wales, explaining the principles of the measure which Her Majesty's Government propose to introduce at as early a period as may be practicable of the next Session of Parliament, and which, while it would effect the separation of the district of Port Phillip from the colony of New South Wales, and its formation into a separate government, would, at the same time, provide for introducing the principle of popular representation into the governments of Van Diemen's Land and of South Australia, by the addition of elective members to their Legislative Councils, bearing the same proportion to those nominated by the Crown as that which is now established in New South Wales. The motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the form of legislature now existing in the former colony, instead of creating two distinct chambers, are fully stated in the enclosed despatch. And it appears to me, that there is no sufficient reason for departing from the same form of constitution in those colonies to which representative government will be now, for the first time, extended. It is unnecessary to recapitulate those farther points, which you will find sufficiently noticed in the despatch in question.

I have, &c.
(signed) *Grey.*

— No. 6. —

(No. 124.)

No. 6.
Earl Grey to the Lieut.-governor of VanDiemen'sLand.

COPY of a DESPATCH from Earl *Grey* to the Lieutenant-Governor of *Van Diemen's Land.*

31 July.
No. 133, p. 44.

Sir, Downing-street, 3 August 1848.

I TRANSMIT to you herewith, for your information and guidance, a copy of a despatch which I have addressed to the Governor of New South Wales, explaining the principles of the measure which Her Majesty's Government propose to

No. 6.
Earl Grey to the Lieut.-governor of Van Diemen's Land.

to introduce at as early a period as may be practicable of the next Session of Parliament, and which, while it would effect the separation of the district of Port Phillip from the colony of New South Wales, and its formation into a separate government, would at the same time provide for introducing the principle of popular representation into the governments of Van Diemen's Land and of South Australia, by the addition of elective members to their Legislative Councils, bearing the same proportion to those nominated by the Crown as that which is now established in New South Wales. The motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the form of legislature now existing in the former colony, instead of creating two distinct chambers, are fully stated in the enclosed despatch; and it appears to me that there is no sufficient reason for departing from the same form of constitution in those colonies to which representative governments will be now for the first time extended. It is unnecessary to recapitulate those farther points, which you will find sufficiently noticed in the despatch in question.

You will observe that the most material suggestion made by yourself in conformity with the report of your Executive Council, in your despatch No. 122, of 2 October 1847, has been followed; and the other recommendations of your Council will receive full attention.

I have, &c.
(signed) *Grey.*

— No. 7. —

(No. 26.)

COPY of a DESPATCH from Earl *Grey* to the Lieutenant-Governor of *Western Australia.*

No. 7.
Earl Grey to the Lieut.-governor of Western Australia.

31 July.
No. 133, p. 44.

Sir, Downing-street, 3 August 1848.

I TRANSMIT to you herewith, for your information and guidance, a copy of a despatch which I have addressed to the Governor of New South Wales, explaining the principles of the measure which Her Majesty's Government propose to introduce at as early a period as may be practicable of the next Session of Parliament, and which, while it would effect the separation of the district of Port Phillip from the colony of New South Wales, and its formation into a separate government, would, at the same time, provide for introducing the principle of popular representation into the governments of Van Diemen's Land and of South Australia, by the addition of elective members to their Legislative Councils, bearing the same proportion to those nominated by the Crown as that which is now established in New South Wales. The motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the form of legislature now existing in the former colony, instead of creating two distinct chambers, are fully stated in the enclosed despatch; and it appears to me that there is no sufficient reason for departing from the same form of constitution in those colonies to which representative government will be now, for the first time, extended. It is unnecessary to recapitulate those farther points, which you will find sufficiently noticed in the despatch in question.

It is proposed that by the same measure the Legislative Council of Western Australia shall be empowered to pass an Ordinance, adding elective members in the same proportion to its own numbers, whenever the inhabitants shall, by petition, have declared themselves generally favourable to such a change, and prepared, for the sake of obtaining it, to take upon themselves that part of the charge for the civil government of the colony which is now met by the annual grants of Parliament.

I have, &c.
(signed) *Grey.*

NEW SOUTH WALES.

COPIES of the DESPATCH from Earl *Grey* to the Governor of *New South Wales*, dated the 31st day of July 1847, and other DESPATCHES and CORRESPONDENCE relating thereto.

(Mr. Scott.)

Ordered, by The House of Commons, *to be Printed,*
29 *August* 1848.

[*Price* 6*d.*]

715.

Under 8 oz.

NEW SOUTH WALES.

Copy of ORDER IN COUNCIL, dated 11th August 1848, for including in the Settled Districts of *New South Wales*, certain Lands in *Belfast* and *Warnambool*.

(*Presented pursuant to Act 9 & 10 Vict., c. 104.*)

Colonial Office, Downing-street,
4 September 1848.

B. HAWES.

AT the Court at Osborne House, Isle of Wight,
the 11th day of August 1848.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY.

His Royal Highness Prince Albert.

Lord President.	Earl of Auckland.
Duke of Norfolk.	Lord Palmerston.
Marquis of Clanricarde.	Lord Campbell.
Lord Steward.	Sir George Grey, Bart.
Lord Chamberlain.	

WHEREAS by an Act passed in the Session of Parliament holden in the ninth and tenth years of the reign of Her present Majesty, intituled, "An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof," after reciting that it might be expedient that various Rules and Regulations should be made respecting the division of the said Colonies into Districts within which alone the Demises or Licenses mentioned in the said Act might be made to take effect; it was enacted, that it should be lawful for Her Majesty, by any Order or Orders in Council, to make and establish all such Rules and Regulations as aforesaid, as to Her Majesty should seem meet; and any such Rules and Regulations again to repeal, renew, alter and amend, and that all such Orders in Council should have the force and effect of laws in the said Australian Colonies.

And whereas by an Order in Council made in pursuance of the powers given by the said Act, it was ordered that the Lands in the Colony of New South Wales should, for the purposes of the said Order, be considered as divided into three classes, and be dealt with accordingly as they might be situated, in Districts to be denominated respectively as the Settled, the Intermediate and the Unsettled Districts, and it was ordered that the Settled Districts should comprehend certain Lands therein mentioned.

And whereas it is expedient to include within the said Settled Districts, certain Lands not already included within the same.

It is therefore hereby ordered, by The QUEEN's most Excellent Majesty, by and with the Advice of Her Privy Council, that from and after the proclamation of this Order in the said Colony, and the lapse of Six months next after this Order shall have been laid before Parliament, the said Settled Districts shall comprehend, in addition to the Lands already comprehended therein, the following Lands; viz.

1st. The Lands which may be within the distance of 10 miles from a point to be specified by the Governor in the Town or Township of Belfast, in the District of Port Phillip.

2d. The Lands which may be within the distance of 10 miles from a point to be specified by the Governor, in the Town or Township of Warnambool, in the same District.

(signed) *C. C. Greville.*

NEW SOUTH WALES.

Copy of ORDER IN COUNCIL, dated 11 August 1848, for including in the Settled Districts of *New South Wales*, certain Lands in *Belfast* and *Warnambool*.

(*Presented pursuant to Act* 9 & 10 *Vict.*, *c.* 104.)

Ordered, by The House of Commons, *to be Printed*,
4 *September* 1848.

NEW SOUTH WALES.

COPIES OR EXTRACTS

OF

DESPATCHES

BETWEEN THE

COLONIAL DEPARTMENT AND THE GOVERNOR OF NEW SOUTH WALES

RELATING TO THE

PROPOSED CHANGES IN THE CONSTITUTION OF AUSTRALIA.

Colonial Office, Downing Street, 24th May 1849.

B. HAWES.

Ordered to be printed 25th May 1849.

SCHEDULE.

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CORRESPONDENCE, &c.

No. 1.

(No. 203.)

COPY of a DESPATCH from Earl GREY to Governor Sir C. FITZROY.

No. 1.
Earl Grey
to
Governor
Sir C. FitzRoy,
31st July 1847.

Sir, Downing Street, 31st July 1847.

THE long Delay which has occurred in communicating to you the Decision of Her Majesty's Government on the Question of the Erection of the Port Phillip District of New South Wales into a separate Colony under a distinct Government, has been occasioned by the Magnitude of the Interests at stake, and by the Necessity of proceeding with the utmost Deliberation, in a Case in which any material Error might involve Consequences of such grave Inconvenience. An additional Motive for Delay has arisen from the Nature of the Business, alike urgent and momentous, which has chiefly occupied the Attention of Parliament during their recent Session. Under the Pressure of such Exigencies as the Failure of a large Part of the usual Produce of the Soil in the United Kingdom had produced, Her Majesty's Government could scarcely hope that the Attention of the Legislature could be devoted to the Re-construction of the political Institutions of Australia, with the Care requisite for the safe Accomplishment of such a Measure. Nor can I altogether regard this as undesirable on other Grounds. It has afforded, and will yet afford, to Her Majesty's Government the Opportunity and the Means of framing the Bill to be submitted to Parliament with more Circumspection, and (as I trust) with greater Accuracy, than might otherwise have been attainable.

In the Year 1846 Six Despatches were addressed to this Office by Sir George Gipps and by yourself on this Subject. They were dated on the 23d January, the 29th April, the 21st and the 24th of June, and the 29th September in that Year. Of these the first was marked "Confidential," the others were numbered respectively, 90, 91, 122, 125, and 23. Of these, however, the Despatch No. 91. relates principally to a Question of Boundaries; and the Despatch No. 23. has chiefly in view the commercial Relations between the Australian Colonies. Each of them, however, has an incidental and an important Bearing on the Subject of the Erection of Port Phillip into a separate Government. It is therefore most convenient that I should acknowledge and answer the whole of the Series together.

The Despatch dated the 29th April 1846, No. 90, and the voluminous Annexures attached to it, may be considered as having exhausted the Arguments for and against the Separation of the Port Phillip District from the rest of the Colony of New South Wales, so far as those Arguments are drawn from Facts or Considerations of a local Nature. It would be vain to expect from any other Body of Persons to whom the Inquiry could be referred a Review of those Arguments, more complete, more dispassionate, or conducted with greater Ability than is the Discussion comprised in the various Minutes of the Executive Council of New South Wales of the 1st and 23d April 1846, and in the Appendixes subjoined to those Minutes. As it would be impossible for me to exhibit a more clear or comprehensive Summary of the whole Controversy than is to be found in those Minutes and Appendixes, it will be sufficient for me to state that, adopting in general the Reasonings of Sir George Gipps, and of the Majority of the Executive Council, Her Majesty's Government have submitted to the Queen their Opinion, that Parliament should be recommended to impart to Her Majesty the Authority necessary for carrying into effect the practical Conclusion of that Majority.

I am far from being insensible to the Weight of the opposing Considerations, or of the Authority they derive from the Suffrages of the Colonial Treasurer and of the Bishop of Australia in their Favour. That right reverend Prelate has perceived and pointed out the indissoluble Connexion between the secular and the ecclesiastical Bearings of this Question, and has justly felt that the Duties of his sacred Office imposed on him the Obligation of considering it in each of those Lights. You will convey to him my Thanks for the important Aid he has

No. 1.
Earl Grey
to
Governor
Sir C. FitzRoy,
31st July 1847.

rendered on this Occasion to Her Majesty's Government, an Aid which I do not value the less because the Objections of the Bishop to the contemplated Change do not appear to me to countervail the Considerations urged in support of it by the Majority of his Colleagues in the Executive Council.

Without entering at large into the Argument, I must yet so far vindicate my own Conclusion as to remark, that it rests mainly on the great Principle of colonial Government, which all Theory and all Experience seem to me to concur in establishing. That Principle is, that all Affairs of merely local Concern should be left to the Regulation of the local Authorities; to that Principle I know of no general Exceptions, unless in Cases where local Interests may clash with the Interests of the Empire at large, or in Cases where some one predominant Class of a colonial Society might be disposed to exert such Powers so as unjustly to depress some feebler and defenceless Class. It was on this general Principle that the existing Constitution of New South Wales was founded. It is on the same general Principle that the proposed Qualification of it may be most successfully vindicated.

Local Self-government, if necessary for the Good of the whole Colony, is not less necessary for the Good of the several Districts of which it is composed. For this Reason it was that Parliament provided for the Erection throughout New South Wales of Municipal Corporations, which should, in various respects, balance and keep in check the Powers of the Legislative Council. By this Method it was supposed that the more remote Districts would be able to exercise their fair Share of Power, and to enjoy their proper Influence in the general Polity of the whole Province. But the Result has disappointed this Expectation. The Municipalities have only a nominal Existence. The Legislative Council has absorbed all the other Powers of the Colonial State. The Principle of Self-government in the Districts the most remote from Sydney is therefore acted upon almost as imperfectly as if the Conduct of local Affairs had remained under the same Management and Institutions as those which the existing System superseded.

Members, it is true, are chosen to represent those Districts in the Legislature; but it is shown that such of the Inhabitants of Port Phillip as are really qualified for this Trust are unable to undertake it, at the Expense of abandoning their Residences and their Pursuits in the Southern Division of the Colony. Thus the Port Phillip Representation has become an unreal and illusory, not a substantial, Enjoyment of representative Government.

The Principle of local Self-government (like every other political Principle) must, when reduced to Practice, be qualified by many other Principles which must operate simultaneously with it. To regulate such Affairs with reference to any one isolated Rule or Maxim would, of course, be an idle and an ineffectual Attempt; for example, it is necessary that while providing for the local Management of local Interests, we should not omit to provide for a central Management of all such Interests as are not local. Thus Questions, co-extensive in their Bearing with the Limits of the Empire at large, are the appropriate Province of Parliament. But there are Questions which, though local as it respects the British Possessions in Australia collectively, are not merely local as it respects any one of those Possessions; considered as Members of the same Empire, those Colonies have many common Interests, the Regulation of which in some uniform Manner, and by some single Authority, may be essential to the Welfare of them all. Yet in many Cases such Interests may be more promptly, effectually, and satisfactorily decided by some Authority within Australia itself than by the more remote, the less accessible, and, in truth, the less competent Authority of Parliament.

Her Majesty's Government, therefore, hope in the next Session of Parliament to introduce a Bill for the Division of New South Wales into Two Colonies, the Northern of which would retain its present Name, while the Southern Colony would, by Her Majesty's gracious Permission, receive the Name of the Province of Victoria.

The Effect of this Alteration would be to render inevitable some Changes in the existing Constitution of the Northern Government. When detached from the Southern Districts, the existing System would cease in many respects to be appropriate and applicable to its new Condition, and there appear also to be some Particulars in which the practical Operation of the present Constitution proves that it might with Advantage be revised. One of the most material of these

contemplated

contemplated Changes is that which involves a Return to the old Form of colonial Constitutions. You are aware that in the older British Colonies, the Legislature, as in New South Wales, is generally composed partly of Nominees of the Crown and partly of the Representatives of the People; but there is this important Difference between the Two Systems, that in the one Case the Legislature is divided into Two separate Houses and Chambers, in the other the Representatives of the People and the Nominees of the Crown form a single Body, under the Title of the Legislative Council. It does not appear to me that the practical Working of this last System would by any means justify the Conclusion that it is an Improvement upon that which it was formerly the Practice to adopt; on the contrary, I see many Reasons for Belief, that the more ancient System, by which every new Law was submitted to the separate Consideration of Two distinct Houses, and required their joint Consent for its Enactment, was the best calculated to ensure judicious and prudent Legislation.

Another very important Question will arise as to the Means which should be taken in order more effectually to provide for the municipal Government of the various Towns, Counties, or other smaller Divisions. I have already observed that it was the Intention of Parliament, in establishing the existing Constitution of New South Wales, to create local Authorities of this Description; and although that Intention has hitherto been defeated, it is not the Opinion of Her Majesty's Government that it ought to be abandoned. The Experience of our own Country, that of the British Provinces in North America, and also that of the former British Colonies, which now constitute the great Republic of the United States, may be said to have conclusively established not merely the great Advantages of devolving the Management of local Affairs upon the Inhabitants of Districts of moderate Size, acting by their Representatives, but likewise the converse of this, and that Evils of a very serious Kind result from committing the exclusive Management of the Affairs, both general and local, of a whole Province, to a central Legislature, unaided and unbalanced by any Description of local Organization. It follows, that in revising the Constitution of New South Wales, it will be necessary to consider what Changes ought to be made in the existing Law for the Erection of Municipalities, in order to secure to those Bodies their just Weight and Consideration, and especially whether, with that View, they may not be made to bear to the House of Assembly the Relation of Constituents and Representatives.

Some Method will also be devised for enabling the various Legislatures of the several Australian Colonies to co-operate with each other in the Enactment of such Laws as may be necessary for regulating the Interests common to those Possessions collectively; such, for example, are the Imposition of Duties of Import and Export, the Conveyance of Letters, and the Formation of Roads, Railways, or other internal Communications traversing any Two or more of such Colonies.

I will not attempt at the present Moment to do more than to indicate the general Principles on which it is proposed to legislate. The Details will be the Subject of further and of very attentive Consideration.

That Part of the Plan which respects the Creation of a central Authority implies the Establishment of the System of representative Legislation throughout the whole of the Australian Colonies, including Van Diemen's Land and South and Western Australia, though in the latter it will probably be thought right to postpone the Operation of the Change until the Colonists shall be prepared to defray the Expense of their own Civil Government without the Assistance of an annual Parliamentary Grant.

In giving Effect to these Intentions it will be my Duty to take the necessary Means for adjusting the Question respecting the Boundaries of New South Wales, South Australia, and Western Australia, to which Sir George Gipps refers in his Despatch of the 29th April 1846, No. 91.

I shall take the same Opportunity of proposing to Parliament to adjust the Questions of territorial Revenue between the Two Provinces of New South Wales and Victoria, to which Sir George Gipps refers in his Despatches of the 21st June 1846, No. 122, and of the 24th June 1846, No. 125.

The Subject of your own Despatch of the 29th September 1846, viz., the Imposition of discriminating Duties, in any Australian Colony, on Goods the Growth, Produce, or Manufacture of any other Australian Colony, will also be adverted to, and provided for, in that Part of the contemplated Act of Parliament

No. 1.
Earl Grey
to
Governor
Sir C. FitzRoy,
31st July 1847.

ment which will relate to the Creation of a central legislative Authority for the whole of the Australian Colonies.

With these general Remarks, I must for the present dismiss a Subject, the Importance of which would merit, and may hereafter receive, a much more copious Examination and Discussion. What I have written will, however, I trust be sufficient to relieve the Anxiety of the public Mind in New South Wales respecting Arrangements pregnant with Results so momentous to that Part of Her Majesty's Dominions, and therefore so deeply interesting to every other Member of the widely extended Empire over which Her Majesty reigns. It will be no slight Relief to the Responsibility of proposing such a Change to find myself in possession of the most complete local Intelligence and supported by the Opinion of the most eminent local Authorities. I need scarcely add that it will be a Source of the highest Gratification to me, if, under the Authority of Parliament, the Colonial Governments of Australia can be settled on a Basis on which the Colonists may, under the Blessing of Divine Providence, themselves erect Institutions worthy of the Empire to which they belong, and of the People from whom they are descended.

I have, &c.
(Signed) GREY.

No. 2.
Governor
Sir C. FitzRoy
to
Earl Grey,
6th January 1848.

Page 3.

No. 2.

(No. 3.—Executive.)

COPY of a DESPATCH from Governor Sir C. FITZROY to Earl GREY.

Government House, Sydney, 6th January 1848.
(Received 8th May 1848.)

My Lord,

YOUR Lordship's Despatch, No. 203, of the 31st July last, on the Subject of the Erection of the Port Phillip District into a separate Colony, and informing me of the Changes proposed by Her Majesty's Government in the Constitution of the Australian Colonies generally, reached me at a Moment when a severe domestic Affliction rendered me incapable of attending to my public Duties; I, however, lost no Time in directing that it should be submitted to my Executive Council, and it was accordingly laid before that Board at a Meeting at which, in my Absence, Sir Maurice O'Connell presided; and by the Advice of the Council the Despatch was printed, for the Information of the Public, in the Government Gazette, as the best Means of complying with your Lordship's Desire to elicit the Opinions of the Community relative to the Measures contemplated by Her Majesty's Government, the Legislature not being in Session.

I am sure your Lordship would, under my present Circumstances, excuse my offering any lengthened Remarks upon these Measures, even if I had been called upon by your Lordship to do so; but it is right that I should inform your Lordship that, from what I know of the general Feeling throughout the Colony on the Subject of District Councils, the Proposal to make these Institutions bear to the House of Assembly the Relation of Constituents and Representatives will be very unpalatable to the Colonists, and will not fail to create great Opposition and Discontent. I also deem it my Duty to put your Lordship in possession of Two Reports, drawn up at my Request some Time since by Mr. La Trobe and Mr. Deas Thomson, the latter of which gives a complete History of the working of the District Councils of the Colony, from their first Institution to the present Moment; and I know of no Persons in the Colony whose sound practical Understandings and long Experience entitle their Opinion to greater Weight than these Two Gentlemen.

Mr. La Trobe, 28th Sept. 1846.
Mr. Deas Thomson, 27th March 1847.

The Recurrence to the old Form of Colonial Constitution by the Division of the Legislature into Two separate Chambers will not, I apprehend, be ill received, at all events by those Persons in the Colony who understand the Subject, and will give it fair Consideration. I can have no Hesitation in stating my own Opinion, founded upon long practical Experience, that it will be a decided Improvement upon the present Form of Legislation in this Colony.

6th January 1848.

I further beg to transmit to your Lordship the Copy of a Letter addressed to me by the Mayor of Sydney, as Chairman of a public Meeting which was held in

in Sydney on the 5th instant, which I have just received, requesting me to use my Influence with your Lordship to prevent the Introduction of the proposed Measure until the Colonists shall have had an Opportunity of appealing to Her Majesty and both Houses of Parliament.

No. 2.
Governor Sir C. FitzRoy to Earl Grey, 6th January 1848.

I have, &c.
(Signed) Chas. A. FitzRoy.

Enclosure 1. in No. 2.

Encl. 1. in No. 2.

District Councils.

The practical Effect of the Application of the System of District Councils authorized by the Imperial Act 5 & 6 Vict. c. 76., to the Port Phillip District, has been to retard rather than facilitate the Advancement of that Portion of the Colony, and the Progress of its internal Improvement.

It took, so to say, the Power of effecting local Improvements, and the Performance of certain Functions, out of the Hands of the Executive Government, under the Pretence of placing them in the Hands of those who might, in the Abstract, be considered best acquainted with the Wants of the Community, and with the fittest Means of meeting them; while it seemingly would relieve the general Revenue of the Colony from the Burden of wholly bearing the necessary Expenditure; but in its practical working it has totally failed in effecting the Objects aimed at.

District Councils were established in the Counties or Districts of Bourke and Grant. These have now been in existence for Four Years; yet it is not in my Power to point out a single Instance or Particular in either Case in which the Object of these Establishments has been attained. There has not been one Road made or repaired under their Charter, not one School established, not one public Building erected, and not one Farthing raised or applied to the Support of a District Police or to the Administration of Justice. If you except some unimportant preparatory Surveys, and the Execution of certain preparatory Estimates, nothing whatsoever has been done.

To issue the Charter and name properly qualified Persons to form the District Council in the first instance, was the Duty of the Governor, and no very difficult Matter; neither was the first internal Organization of the Council, when so established, difficult. Rules were laid down and Bye Laws framed, and salaried Officers appointed in due Form; and when the Period arrived when the Government Nominees were to give place to Members chosen by the Electors, there was, in the first instance, no Difficulty whatsoever in finding Persons both ready and willing to undertake the Charge. But when the Time came when the Machine thus prepared and framed should set to work, to perform its real and ultimate Functions, it was found totally incompetent to do so.

I cannot attribute this Result to any Indisposition to work, or any Want of Management in the Two District Councils in question. Although the People generally may have viewed the Scheme from the Outset with a Degree of Repugnance and Suspicion, as they will every Project which threatens Taxation, still in the Minds of many, both in and out of the Councils, there existed a Prejudice in its Favour, and a sincere Desire to see it carried into effect.

The District Council of Grant particularly exerted itself to the utmost to do so, but with no other Result than that, after Four Years Existence, it has, with all its Zeal, effected nothing to the public Advantage; and brought Embarrassment and Ridicule upon all connected with it. Its Liabilities, if I recollect right, do not fall much short of 700*l.*

The District Council of Bourke having proceeded with more Caution in appointing salaried Officers, while the ultimate working of the Taxation Part of the System lay under reasonable Doubt, is less deeply involved, but still sufficiently so to render the Position of the Gentlemen, who, from their official Connexion with it, are in Law responsible for its Debts, a very unpleasant one.

Meanwhile the Executive Government finds itself forced, on the one hand, to furnish wholly from the general Revenue, with the Approval of the Legislative Council, that Provision for the Maintenance of Police and Schools within the several Districts which it was the express Object of the Imperial Act to relieve it of, in part at least, and on the other, to decline entering upon the Performance of other Functions which the Law provides must be performed by the District Council, or to undertake the Direction and meet the Expense of Works of internal Improvement, however called for, which under the same Law must be effected by the Council, and at the Cost of the Community.

It would seem from the Correspondence upon this Subject, that while the Governor finds it impossible to reconcile the Law and the actual Circumstances of the Colony, he is neither in a Position to advise nor assist; that he not only cannot assist the Council by coming forward to extricate them by entirely setting aside the Law, or by reconciling the opposing Interests of the Crown and the District Council within the Counties sufficiently to enable them to extricate themselves, but that he has the ungracious Task committed to him, in the event of the Non-election of Members to fill up Vacancies, of forcing Gentlemen who may be considered properly qualified to enter the Council, and become, whether they will or no, Participants in the Embarrassment and Discredit that beset the Institution.

Encl. 1. in No. 2.

The plain Fact appears to be, that though you may make an Institution suit the Condition of a Colony, you cannot force a Colony to suit a given Institution; and that the System of District Councils was neither properly devised nor suited to the present State and Circumstances of the Port Phillip District.

The Population is not sufficiently large. With the Exception of Melbourne, it is not for the present found sufficiently concentrated, or equally distributed over the Surface; our Acquaintance with the physical Details of the Country even is too slight, the Value of Property too fluctuating, and too undetermined; the Distinction between Points of general and local Interests not sufficiently recognised. Where everything has to be done, the Character and relative Value of different public Improvements, and the Order in which they ought to be undertaken, are Points not easily decided. The sold and the unsold Crown Lands (the latter still forming the great Bulk of the Areas nominally under the Jurisdiction of the Councils) are found to interlock on every Side; and wherever this is the Case it will be difficult to hit upon a Mode of reconciling the Interests of the Public with the Rights of the Crown. And, lastly, the Country does not possess, for the present, the Class of Men which, in older Countries and Communities, may be found possessing both the Ability, the Leisure, and the Will to make the public Business their own. The Port Phillip District, however advanced, is in this respect young yet.

The Facts I have stated, however briefly, descriptive of the practical working of the System in the District, no one can dispute; and I believe that the Opinion I have given of its Inapplicability to the present Circumstances of the Community which it was intended to benefit and advance in Prosperity, is very generally that of the sober and practically-minded Inhabitants.

I trust that this Portion of the Imperial Act, if no other, will be repealed, and that the Power will be left to the executive and legislative Authorities of the Colony to introduce, as the Times and Circumstances of the Colony permit or render advisable, such Measures of local Self-government as may be clearly applicable to it, and practicable in execution.

I would further hope that the present District Councils will be placed in a Position to terminate their Duties by paying the just Claims preferred against them.

28th September 1846. (Signed) C. J. La Trobe.

Encl. 2. in No. 2.

Enclosure 2. in No. 2.

District Councils of New South Wales.

In conformity with the Desire of his Excellency the Governor, I have the Honour to subjoin some Observations on the practical working of that Portion of the Constitutional Act of the Colony, 5 & 6 Vict. c. 76., which relates to the Establishment of District Councils.

2. Soon after the Act in question came into force (namely, in 1843), the late Governor, Sir George Gipps, proceeded to exercise the Power thereby vested in him, of issuing Charters for the Establishment of District Councils in the whole of the 19 Counties (and the reputed County of Macquarie), within the Limits of Location; and also in the reputed Counties of Bourke and Grant, in the District of Port Phillip.

3. As a general Rule, the Boundaries of their Jurisdiction were chosen not from those of the Counties, but of the several Police Districts, as being more suited to the Convenience of the Inhabitants; and in a few Instances, where the Population was scattered and few in number, Two Police Districts were for this Purpose thrown into One.

4. The whole Number of Districts for which Charters were issued was 28, namely:—

1. Maitland.
2. Windsor.
3. Goulburn.
4. Yass.
5. Patrick's Plains.
6. Scone and Munurunde.
7. Macquarie.
8. Hartley.
9. Bathurst and Carcon.
10. Penrith.
11. Berrima.
12. Parramatta.
13. Sydney.
14. Illawarra.
15. Braidwood and Broulee.
16. Queanbeyan.
17. Merton and Muswellbrook.
18. Campbelltown, Camden, and Narellau and Pictou.
19. Paterson.
20. Raymond Terrace and Dungoy.
21. Bourke (Port Phillip).
22. Grant (Port Phillip).
23. Liverpool.
24. Wollombi and Macdonald.
25. Brisbane Water.
26. Mudgee and Wellington.
27. Cassilis, and
28. New Castle.

5. The District of Campbelltown, Camden, and Narellau and Pictou (originally comprising Three Police Districts) was subsequently divided, by Act of Council, into Two Districts, under the respective Denominations of Campelltown and Appin, and Camden and Narellau and Pictou, thus making the entire Number of District Councils 29.

7 Vict. No. 15.

6. To

6. To each of these a Warden was appointed, and the Councillors were selected from the most influential and respectable Persons resident in each District. Encl. 2. in No. 2.

7. The Form of Charter was carefully drawn up, and before any of them were issued, was submitted for the Approval and Revision of the late Solicitor General, now Mr. Justice a'Beckett, resident Judge at Port Phillip. Copy enclosed.

8. Soon after the Issue of the Charters, numerous Petitions were adopted on the Subject of the Powers granted to these Bodies. During the Season of 1843, no less than Fifteen were presented to the Legislative Council, by far the greater Number of which prayed either a Suspension of the Functions of District Councils until better Times, or the total Abrogation of the Clauses of the Constitutional Act having reference to their Establishment.

9. On the 10th October 1843 an Address to the Governor was adopted by the Legislative Council, communicating a Resolution, to the Effect, "that in the present State of the Colony "it is highly inexpedient if not impossible to cast any Portion of the Police Expenditure "on the Country Districts; that this Expenditure, therefore, for the Year 1844 should be "defrayed as hitherto out of the general Revenue;" and "earnestly assuring his Excel- "lency that the Pressure of the Times enforced the above Resolution on the Council;" and "praying that his Excellency would therefore take such Measures as might be "requisite for giving Effect to the same without Injury to the Public Service." To this Address the Governor replied by Message, on the 12th October, stating in substance that for the Reasons assigned by the Council, he was willing to share with them the Responsibility of postponing for a Year the Requirements of the 47th Clause of the Act of Parliament, and inviting the Council therefore to appropriate out of the general Revenue a Sum sufficient to defray the Expense of an efficient Police in the rural Districts, without calling on these Districts in the Year 1844 for the Contributions which, under the Act of Parliament, ought to be required from them. The Estimates for the whole of the Police and School Expenditure were accordingly voted for the Service of 1844 out of the general Revenue. Copy enclosed. (A.) Copy enclosed. (B.)

10. Considerable Difficulty having been experienced in finding Persons to serve as District Councillors who were possessed of the requisite Qualifications according to the Provisions of the Imperial Act, a Bill was introduced into the Legislative Council by the Government on the 22d November 1843, reducing the Qualification from a Freehold Estate of the Value of 2,000*l.* on the whole, or 100*l.* per Annum, to a Real or Personal Estate of 500*l.* on the whole, or the being rated for the Purposes of the District Council on Property of the annual Value of 50*l.* This Bill having been read a First Time, it was, upon a Division of Eleven to Five, ordered to be read a Second Time on Thursday the 7th December, but having been again postponed to Friday the 8th of the same Month, it was ultimately thrown out by a Motion for the previous Question, in which there was a Majority of Eight to Five against the same. Copy enclosed. (C.)

11. It having been found impracticable without the Aid of the Legislature to give proper Effect to the Powers, &c. granted to the District Councils by the Charters under the Imperial Act, a Bill was introduced into the Legislative Council by the Government, in the Session of 1844, intituled "A Bill to make further Provision respecting the Consti- "tution of District Councils in the Colony of New South Wales." On the 25th of July 1844, on the Motion that this Bill be printed and read a Second Time on Thursday, August 1, it was moved as an Amendment, "that the Bill be read a Second Time that "Day Six Months." A further Amendment was moved in the Debate which ensued thereon, to the Effect "that in the Opinion of this Council the District Councils are "totally unsuited to the Circumstances of the Colony, the Country Districts being unable "to meet the additional Taxation which would necessarily be required in carrying out the "various Objects contemplated by their Institution; and the Cost of the Machinery "requisite to bring them into Operation being of itself an Obstacle fatal to their Success; "and that therefore the Second Reading of the Bill be postponed to that Day Six Months." Upon a Division the latter Amendment was carried by a Majority of Fourteen to Seven, only One elective Member voting in the Minority. Copy enclosed. (D.)

12. During the same Session it appears that no less than Thirteen Petitions were presented to the Council, having reference to District Councils, some of them objecting to the Power of Taxation granted to these Bodies, and others praying for some Alteration, either in the Boundaries of the Districts or in the Constitution of the Councils.

13. In the Course of the Debate which took place on the Amendment of the 25th July 1844, the principal Objections urged against the District Councils were, that the Districts would be unable to meet the Demands which would in consequence be made upon them, especially those of Police and Gaols; that the Expense of the Machinery alone was a serious Objection; and that there was no sufficient Population in the Country Districts to enable the Inhabitants to manage their local Affairs.

14. On the same Day a Bill, which had been introduced into the Council by the Government, on the 18th of the same Month, intituled "A Bill to settle the Proportions in "which Money shall be raised in each District in the Colony of New South Wales, by "Assessments for the Purpose of defraying Half the Expense of maintaining a Police "Force," was also thrown out by a Majority of Eleven to Four, the Minority consisting entirely of non-elective Members. Copy enclosed. (E.)

Encl. 2. in No. 2.

15. It seemed, indeed, to be the fixed Determination of the Council to lend no Assistance to the Government in bringing into successful Operation this Part of the Constitution of the Colony. The Result has been, that as a general Proposition it has remained, as regards the peculiar Functions delegated to the District Councils, wholly inoperative.

Copy enclosed. (F.)

16. On the 9th August 1844 the Council voted an Address to the Governor, transmitting to his Excellency a Copy of the above Resolution, and stating "that it had been passed "after a full Consideration of the numerous Petitions that had been presented to the "House, and under a full Persuasion that the District Councils, as at present constituted, "could not be carried out without much Hardship and Oppression." The Council also begged to remind his Excellency that they were prevented by the Act of the Imperial Parliament, 5 & 6 Vict. c. 76., from amending the Constitution of the District Councils in the most important Points prayed for, particularly in regard to the Police Clauses which the Council and the Colonists generally considered the most obnoxious. The Council further requested his Excellency to make such a Representation to Her Majesty's Government as would procure a Repeal of those Clauses of the Imperial Act which relate to District Councils, and that the Incorporation of Towns and Districts should be left to the Governor and Legislative Council of the Colony. The Council concluded by requesting, "that until the Governor received Instructions from Her Majesty's Government, he would "place on the Estimates of Expenditure such Sums as his Excellency might think neces-"sary to make Provision for such Objects as it was intended should be provided for by the "District Councils, had they been brought into Operation." To this Address the

Copy enclosed. (G.)

Governor replied by Message on the 20th August 1844, to the Effect, "that the Council "having rejected the Bills which he caused to be presented to them, for the Purpose of "carrying into effect the Enactments of Parliament in regard to the Police of the Colony, "he would accept such Sums as the Council might place at his Disposal for the Mainte-"nance of the Police Force during the Year 1845, though he must disclaim any Share in "the Responsibility which this Infraction of the Constitution might involve."

17. The Estimates for the whole Expenditure for Police and Schools during the Year 1845 were accordingly again voted from the general Revenue.

Copy enclosed. (H.)

18. In the Session of 1845 an Address was voted by the Council to the Governor, on the 24th September of that Year, communicating the following Resolution, namely, "That "as no Answer had been received by the Council to the Address which was voted on the "9th August 1844, in reference to District Councils, his Excellency the Governor be "requested to recommend to the Council that the Expense of the Police and Schools of the "Colony during the Year 1846 be defrayed on the same Principle as was adopted for the "current Year." To this Address the Governor replied by Message, on the 30th September

Copy enclosed. (I.)

1845, acceding to the Proposal of the Council. The necessary Provision was accordingly made in the Appropriation Act for these Services.

19. During the Session of 1845 there appears to have been only One Petition presented to the Council on the Subject of District Councils, being that from the Electors and Ratepayers in the District of Grant, Port Phillip, praying, "that Measures should be adopted "for suspending the Operations of the District Council of Grant, and to provide for the "Liquidation of the Expenses already incurred." The Absence of other Petitions may be accounted for from the Fact that, with certain Exceptions which will be noticed in the Sequel, the Functions of the several District Councils throughout the Colony had fallen into complete Abeyance. The Petition referred to arose apparently from a contemplated Collection of the Assessment Rates by the District Council of Grant.

20. In the Debates which took place in Council 1845, the same Arguments were advanced against the District Councils as in the previous Session, and it was further urged, that it was a Subject which should properly be left to the local Legislature, who, from a superior Knowledge of the Circumstances of the Colony, would be able to devise a System better suited to the Wants and the Wishes of the Community, and one which at the same Time would be acceptable to Her Majesty's Government; that the Clauses of the Imperial Act relative to the Enforcement of the Assessment for Police Purposes were peculiarly obnoxious to the Colonists generally; that, from the great Disproportion of the alienated to the unalienated Lands (averaging One Acre of the former to Six of the latter), any System of

Statement enclosed. (K.)

Taxation for the Purpose of Roads would bear peculiarly hard upon the Landed Proprietors, who would thus be compelled to pay for such Roads as passed through the Crown Lands, by which their Value would be proportionally enhanced at the Expense of those who had paid for their Lands, without, however, any Contribution being made for the Purpose from the public Funds; that the System had never been attempted in the Counties of England, and if unsuited to them, it was doubly so to the thinly peopled Pastures of Australia; that, although there was a Power to make an Assessment under the Act, there was none to levy it when made, and there was a fixed Determination, by every Means in the Power of the Council, by raising substantial as well as technical Objections, to prevent the successful working of the Bodies.

21. In the Session of 1846 the necessary Sums were placed on the Estimates for the Support of Police and Schools, without waiting for any Application to this Effect from the Legislative Council, a Course which it will, it is conceived, be necessary to continue until the final Decision on the Question be received from Her Majesty's Government.

22. As already stated, the whole of the District Councils throughout the Colony, with the Exception

Exception hereafter noticed, having been in a State of Abeyance, it does not appear that any Proceeding in reference to them took place in the Legislative Council during that Session. Encl. 2. in No. 2.

23. Such is a brief Account of the legislative Proceedings on the Subject of these Institutions, since their first Establishment to the present Time.

24. It may not be altogether irrelevant now to inquire how far the Establishment of municipal Institutions in the Country Districts has been favourably received by the Inhabitants. If we may judge by the Result of the Elections in the different Districts, the Possession of this Privilege is looked upon, at least in a great many of them, with much Indifference, an Indifference which appears to have annually increased since their first Establishment. The following Summary, showing the Number of Members elected, and nominated by the Governor in default of Election, to fill the annual Vacancies of One Third under the Charter, will sufficiently illustrate the Truth of this Conclusion: viz.,

1844	elected	67
	nominated	0=67
1845	elected	51
	nominated	14=65
1846	elected	38
	nominated	32=70

Thus during the Three Years in question, there were 156 Persons elected, and 46 nominated by the Governor. It is also undoubted that of those elected a considerable Proportion did not consist of the Persons most eligible for so important a Trust, a great Disinclination being understood to prevail amongst many highly respectable Persons to accept the Office.

25. It appears that (with the solitary Exception of the Sum of 170*l.* raised by the District Council of Grant) in none of the Districts was any Revenue whatever raised by Assessment. In several Debts have been incurred in Payment of the Salaries of the Officers appointed by the Council; but the Refusal of the Legislative Council to grant the additional Facilities necessary to enable these Bodies to levy the Assessments when made, and the strong Opinions expressed in Debate of the Risk which would attend their Enforcement, seem to have entirely paralysed the Endeavours of the several District Councils to exercise their legitimate Powers.

26. Almost the only Exception to the total Inactivity which has characterised these Bodies is to be found in the District Council of Parramatta; but even here the necessary Expenditure is not met by Assessment in the Manner contemplated in the Imperial Act, but by the Sums received for Tolls on the public Roads in the District, which are levied and collected by the Government, and then handed over to the District Council, to be expended exclusively in the Repair of the Roads. There is every Reason to believe that the Sums so granted have been spent for the Purpose in a very judicious and economical Manner. The same Arrangement was proposed to the District Council of Windsor, but was not acted on. It should also be mentioned here that the District Councils of Sydney and of Grant for some Time evinced considerable Activity, but for the Reasons already alluded to they also are now in Abeyance.

27. It has been clearly shown that the Legislative Council would lend no Assistance to the Executive Government in giving Effect to this Part of the Constitution of the Colony; and notwithstanding the Power granted to the Governor and Executive Council under the 48th Clause of the Constitutional Act, as amended by the 5th Section of the 7th & 8th Vict. c. 74., to declare the Property on which an Assessment might be levied for Purposes of Police, this Power must remain wholly inoperative unless the Legislative Council shall previously declare by a Bill the Proportions in which each District shall contribute the Half of the Expense of Police, to be raised by Assessments by the District Councils. It has not therefore been possible, even if it had been expedient, for the Governor and Executive Council to exercise this Power in the Absence of a Bill of the Nature in question.

28. From the foregoing Statement it will be gathered,

1st. That District Councils have, from the Causes mentioned, entirely failed to answer the Object contemplated in their Establishment.

2d. That there is at present only One in active Operation, and this One is sustained only by Contributions from the Government, and not by Assessment raised under the Powers granted to it under the Act.

3d. That these Institutions, in their present Form, are not adapted to the State of Society in this Colony.

4th. That so far as the Legislative Council or the Public at large is concerned, they are not regarded in any favourable Light.

29. Such are the general Conclusions at which I am forced to arrive, from a full Consideration of all the Circumstances I have detailed. I am by no means prepared to say, however, that, with considerable Modification, they may not be adapted to the peculiar Circumstances of the Colony; but this can only be done by leaving all Legislation on the Subject to the local Legislature. No doubt, as has been experienced in other Colonies, there may be an Indisposition on the Part of the supreme Legislature to grant to any other Bodies concurrent Powers of Taxation; but for mere local Purposes it is scarcely to be apprehended that this would be refused, especially when it would have the Effect of relieving the general Treasury from heavy Burdens, which it can ill afford to bear.

 30. I am

Encl. 2. in No. 2.

30. I am aware of the Convenience of ascertaining the real Wants of any particular District of an adequate Police Force, from the Willingness of the Inhabitants to contribute a Portion of the Expense; but nevertheless I am doubtful, in the present scattered State of the Population, whether the whole Expense of the Police should not continue to be borne on the general Revenue; more especially so long as it is expedient that the Management of it should remain in the Hands of the Executive Government.

31. With respect to Schools, there appears to me to be great Objections to make them wholly dependent upon the Support that the District Councils may be willing to grant to them. It is the peculiar Province of the Government and the Legislature to watch over the Education of the People; and it may therefore be scarcely safe that it should be left contingent on the narrow Views of Economy which may influence merely local Bodies in raising the necessary Funds for the Purpose. There is this great Objection also to leave this important Service to be provided for by the several District Councils, namely, that a different System of Education may be introduced into each, instead of One general and comprehensive Plan suited to the Colony at large. No doubt this might be regulated by an Act of Council applicable to the whole; but there would still be this Objection, that if unpalatable to any particular District, the Council thereof might frustrate the Intentions of the general Legislature by refusing to raise for the Purpose the necessary Funds.

32. I would propose also that the great Lines of Thoroughfares throughout the Colony should be entirely withdrawn from the Control of the District Councils. These must be considered of general not merely of local Interest. On the other hand Parish Roads and Bye Roads leading from one Part of a District to another, and in which the Public at large have no Concern, should be left to the Management of the District Councils.

There are many other local Works and Buildings such as are contemplated by the present Constitutional Act, which should also be confided to them.

(Signed) E. Deas Thomson.

Colonial Secretary's Office, Sydney,
27th March 1847.

Charter establishing the District Council of ——.

Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, and so forth;

To all to whom these Presents shall come, Greeting:

Preamble.

5 & 6 Vict. c. 76. ss. 41. to 44. recited.

Whereas by an Act of our Imperial Parliament, passed in the Fifth and Sixth Year of our Reign, intituled "An Act for the Government of New South Wales and Van Diemen's "Land," after reciting the Expediency of making Provision for the local Government of the different Parts of the said Colony of New South Wales, it was, amongst other Things enacted, that it should be lawful for the Governor of the said Colony, by Letters Patent, under the Great Seal of the said Colony of New South Wales, to incorporate the Inhabitants of every County within the said Colony, or of such Parts of Counties or other Divisions as to him should seem fit, to form Districts for the Purposes of the said recited Act, and by such several Letters Patent to establish a Council in every such District for the local Government thereof, subject to the following Provisions as therein contained; (that is to say,)

1. That every such District Council shall be elective after the First Nomination thereof as herein-after mentioned, the Elections being made in the several Districts or other fit Divisions to be defined by the Charter within the District, so that until further Provision be made in this Behalf by the Governor and Legislative Council of the Colony of New South Wales, if the Population in such District, according to the last Census taken before the Charter, be less than 7,000 Souls, the Number of Councillors for such District shall not be more than Nine; if the Population be 7,000 and less than 10,000 the Number of Councillors shall not be more than 12; if the Population be 10,000 and less than 20,000 the Number of Councillors shall not be more than 15; if the Population be 20,000 and upward the Number of Councillors shall not be more than 21:

2. That until further Provision be made in this Behalf by the Governor and Legislative Council of the Colony of New South Wales, the District Councillors shall be Persons qualified to be elected Members of the Legislative Council, and shall be elected to such Office by the Persons qualified to vote in the Election of Members of the Legislative Council within the District in which the Election is made:

3. That no District Councillor shall hold any lucrative Office or Appointment under such District Council, or enter into or be concerned or interested in any Contract or any pecuniary Dealings with such District Council, under a Penalty or Penalties to be fixed in such Letters Patent of Incorporation:

4. That no District Councillor shall continue in Office for more than Three Years, unless re-elected:

5. That the District Council shall be presided over by a Warden to be appointed and be removable by Her Majesty, or by the Governor in the Name of Her Majesty;

6. That

Encl. 2. in No. 2.

6. That a District Surveyor, who shall have passed an Examination before a competent Tribunal approved by the Governor, shall be appointed in each District for superintending the Construction of Roads and other public Works undertaken by Authority of the District Council; and that the District Surveyor, and all other Officers needed for the Exercise of the Powers of the District Council, shall be appointed and be removable by the District Council, subject to the Approval of the Governor:

7. That Accounts in detail of all Monies expended in every Year, by or under the Authority of the District Councils, be laid before the Governor, and otherwise published in such Manner as may be directed by the Charter, or provided by any Law of the Governor and Legislative Council of the Colony of New South Wales.

And whereas it was by the said Act further enacted, that it should be lawful for each of the said Councils in the said Districts respectively to make Orders and Bye Laws for all or any of the following Purposes; (that is to say,)

For making, maintaining, or improving any new or existing Road, Street, Bridge, or other convenient Communication and Means of Passage through the District, or for stopping up, altering, or diverting any Road, Street, or Communication within the Limits of the District:

For building, repairing, and furnishing public Buildings:

For the Purchase of such Real and Personal Property situate within the District as shall be required, in the Opinion of the Council, for the Use of the Inhabitants thereof:

For the Sale of such Part of the Real and Personal Property belonging to the District as shall have ceased, in the Opinion of the Council, to be useful to the Inhabitants:

For the Management of all Property belonging to the District:

For providing the Means of defraying such Expenses of or connected with the Administration of Justice and Police within the District as are or shall be hereafter by Law directed to be defrayed by the District, or out of the District Funds:

For providing for the Establishment and Support of Schools:

For raising, assessing, levying, and appropriating such Monies as shall be required for the Purpose of carrying into effect all or any of the Objects for which the said District Councils respectively shall be empowered to make Orders and Bye Laws, which Monies shall be raised, either by means of Tolls to be paid in respect of any public Work within the District, or by means of Rates and Assessments to be assessed and levied on Real or Personal Property, or both, within the District, or in respect of such Property, upon the Owners and Occupiers thereof:

For the collecting and accounting for all Tolls, Rates, and Assessments imposed or raised under the Authority of any such Council, and of the Revenues belonging to the District:

For imposing and determining reasonable Penalties to be recovered from such Persons as, having been elected to Offices, as herein-before provided, should refuse to serve the same, or refuse or neglect to take and subscribe such Oaths of Office as shall by Law be required to be taken by such Officers respectively:

For determining the Amount and Time of Payment of all Salaries or other Remuneration of District Officers to be appointed under the Authority of this Act:

For providing for any other Matters which shall be specially subjected to the Direction and Control of the said District Councils respectively by any Law of the Governor and Legislative Council of the Colony.

Provided always, that no such Bye Law should impose any Punishment of Imprisonment, or any Penalty exceeding 10*l.*; provided also, that it should not be lawful for any such District Council as aforesaid to levy any Rate or Assessment whatever on any Lands or Tenements, Goods or Chattels, Real or Personal Estates, belonging to Her Majesty, Her Heirs and Successors: And whereas it was by the said recited Act further enacted, that a Copy of every Bye Law made by any District Council under the Authority of this Act should be transmitted by the Warden of the District, within Fourteen Days after the making thereof, to the Governor of the Colony of New South Wales, and it should be lawful for the said Governor, with the Advice of his Executive Council, at any Time within Two Calendar Months after the Receipt of such Copy, to disallow such Bye Law, and such Disallowance should without Delay be signified to the Warden of the District where such Bye Law should have been passed, and thenceforward such Bye Law should be void and of no effect; and no such Bye Law should have effect until the Expiration of the said Period of Two Calendar Months, unless the said Governor should have given Assent thereto before the Expiration of that Period: And whereas it was by the said Act further enacted, that, subject to the Provisions therein contained, it should be lawful for the said Governor to specify in Writing, and by the said several Charters of Incorporation, the Metes and Bounds of the said several Districts, and the Number of Councillors which should be for every District, and the Time and Manner of their Election, and to fix the Qualification of the Councillors, and to nominate among the Persons qualified to vote in the Election of Councillors, the Councillors, being duly qualified, who should form the first Council in every such District, and to appoint the Order and Manner in which they should go out of Office, and to fix Penalties for qualified Persons refusing to hold Office in the Council, and to make all other necessary Provisions for establishing such District Councils, for defining their Powers, and enabling them to exercise their Functions: Now, know ye, that We, upon full Consideration of the Premises, and of our special Grace, certain Know-

ledge, and mere Motion, have, in pursuance of the said Act of Parliament, thought fit to

Inhabitants incorporated.

incorporate, and do by these Presents accordingly for Us, Our Heirs and Successors, incorporate the Inhabitants of the District of to be and form a

District Council established.

District for the Purposes of the said Act; and We do further direct, ordain, and appoint, that there shall be established within the said District a Council for the local Government thereof, to consist of the Members appointed or chosen in the Manner herein-before declared.

II. And We do further direct and ordain, that the said District shall be deemed to include all that Part of the Territory of New South Wales situate within the following

Boundaries.

Metes and Bounds; (that is to say),

Seal of District Council.

III. And We do hereby give and grant to the said Council Power to have a Common Seal, and such Seal from Time to Time to break, change, and alter, as to the said Council may seem fit or expedient.

Appointment of Warden.

IV. And We do further will and ordain, that shall be the Warden of the said District during Our Pleasure, or the Pleasure of the Governor of Our said Territory for the Time being.

Number of Councillors.

V. And We do hereby further ordain and declare, that the Number of Councillors for the said District shall be .

Nominating first Councillors.

VI. And We do further nominate and appoint to be the Councillors who shall be and form the first Council for the said District.

Election of Councillors.

VII. And We do hereby further ordain and appoint, that in every Year, at the Times and in the Manner herein-after mentioned, there shall be elected the Number herein-after mentioned of fit and proper Persons to be Councillors of the said District, to supply the Vacancies which shall arise by the Councillors going out of Office, in the Manner herein-after mentioned.

Nomination of Councillors at Elections.

VIII. And We do further will and ordain, that the first Tuesday in the Month of May in every Year shall be the Day of Nomination of Councillors to supply the Vacancies which shall arise from the Councillors going out of Office, in the Manner herein-after mentioned, and that the said Warden shall preside at a Meeting to be holden at Noon, at and shall declare the Purpose for which such Meeting is held; and if there be at such Meeting no more Candidates proposed than the Number of Councillors to be elected, the said Warden shall declare such Candidates to be duly elected; and that in the event of there being more Candidates than the Number to be elected, the said Warden shall call for a Show of Hands separately in favour of each Candidate, and after such Show of Hands shall declare the Persons on whom the Election has fallen, unless a Poll be demanded by some or one of the Candidates, or by not less than Six Electors on their or his Behalf; and on such Demand being made for a Poll, the Polling shall commence at the different polling Places, as nearly as may be at Nine o'Clock of the Forenoon on the Day next but Two after the Day of Nomination.

Order in which Councillors to go out of Office.

IX. And We do further will and ordain, that during the first Three Years One Third Part of the said District Councillors shall go out of Office, on the First Day of May, in each such Year, in the inverse Order in which their Names are herein-before mentioned; and that in every subsequent Year One Third Part of the said Councillors shall go out of Office on the said First Day of May, in the following Order; that is to say, the Councillors to go out of Office shall be those who have been longest in Office without Re-election; provided, however, that the Councillors, whether nominated or elected, so going out of Office may be re-elected at the next Election, if still duly qualified; provided also, that if any Question arise as to which Councillor shall be the One to go out of Office, of any Two or more who may have been elected on the same Day, the Councillor to go out of Office shall be the One who was elected by the smallest Number of Votes, and that in the event of the Number of Votes having been equal the Warden shall decide.

Booths to be erected for taking the Poll.

X. And We do further will and ordain, that at every Election in such District, the Warden, if it shall appear to him expedient for taking the Poll at such Election, may cause Booths to be erected or Rooms to be hired and used as Booths, in One Place or in several Places at each Polling Place, as Occasion may require, and the same shall be so divided into Compartments as to the said Warden shall seem most convenient; and the said Warden shall appoint a Clerk to take the Poll at each Compartment, and shall, before the Day

Electoral List to be furnished to each Booth.

of Election, if there be a Contest, cause to be furnished for each Booth or Polling Place a Copy of the Electoral List of the District, and shall, under his Hand, certify such Copy to be true.

Polling Places.

XI. And We do further will and ordain, that every Place within the said District at which Courts of Petty Sessions have been or shall be appointed to be holden, provided that such Courts shall continue to be so holden thereat, shall be a Polling Place for taking the Poll at the Election of Councillors for the said District.

Election at Polling Places to be before Warden or his Deputy.

XII. And We do further will and ordain, that the Election of Councillors at each Polling Place within the said District shall be held before the Warden (for the Time being of the same) or his Deputy; and the voting at every such Election shall commence, as nearly as may be, at Nine o'Clock in the Forenoon, and shall finally close at Four o'Clock in the

Afternoon

Afternoon of the same Day, and shall be conducted in manner following; that is to say, every Inhabitant entitled to vote in the Election of Councillors may vote for any Number of Persons, not exceeding the Number of Councillors then to be chosen, by delivering to the said Warden, or his Deputy, a voting Paper, containing the Christian Names and Surnames of the Persons for whom he votes, and their respective Places of Abode and Descriptions, such Paper being previously signed with the Name of the Elector voting, and with the Name of the District or Place in which the Property in respect of which he is qualified to vote is situated. Manner of voting.

XIII. And We do further will and ordain, that the Warden of the said District shall preside at , being the chief Polling Place of the same, and that he may appoint a Deputy to act for him and take the Poll at each of the other Polling Places; provided that such Deputy be appointed by a Writing under the Hand of the said Warden, and that such Writing be posted up at the Court House, or in any other public Manner, where such Polling Place may be situate, at least Seven Days before the Day of Election: Provided also, that if the Warden of the said District shall be prevented, by Illness or other adequate Cause, from presiding at the said Election, the senior Councillor of the District, as herein-before provided, shall preside in his Place. Warden to preside at chief Polling Place and to appoint Deputies for the others.

XIV. And We do further will and ordain, that before any Candidate for the Office of Councillor shall be capable of being elected, he shall, if required by any Elector or the Warden, make the following Declaration, or that some Person on his Behalf shall produce a written Declaration to the same effect, duly signed and executed before a Magistrate by such Candidate, not more than Fourteen Days before the Day of Election:— Declaration to be made by Candidate if required.

'I *A.B.* do declare and testify that I am duly seised, at Law or in Equity, of an Estate 'of Freehold, for my own Use and Benefit, in Lands or Tenements in the Colony of New 'South Wales, of the yearly Value of 100*l.* Sterling Money (or of the Value of 2,000*l.* 'Sterling Money, as the Case may be), above all Charges and Incumbrances affecting the 'same; and that I have not collusively or colourably obtained a Title to or become pos- 'sessed of the said Lands and Tenements, or any Part thereof, for the Purpose of qualifying 'or enabling me to be returned a Member of the Council of the District of .'

XV. And We do further will and ordain, that in any Matter not provided for by this Charter, or by the Act of Parliament made in that Behalf, the Elections shall be conducted in the same Manner as the Elections of Members to serve in the Legislative Council of the said Colony are conducted under the Law now or hereafter existing for the Regulation of such Elections. Conduct of Elections in other respects as in Elections of Members for Legislative Council.

XVI. And We do further ordain and declare, that the present Charter is only supplementary to the said recited Act, and that nothing herein contained shall be held or construed in any Manner repugnant to the said Act. Charter Supplementary only to the Act of Parliament.

XVII. And We do further will and ordain, that if any extraordinary Vacancy shall be occasioned in the Office of Councillor, the Electors entitled to vote shall, upon a Day to be fixed by the Warden, such Day not to be later than 30 Days from the Occurrence of such Vacancy, elect from the Persons duly qualified to be Councillors another Person to supply such Vacancy; and such Election shall be held, and the voting and other Proceedings, in case of a Contest, shall be conducted in the same Manner, and subject to the same Provisions, as are herein-before directed with respect to the Election of Councillors as aforesaid; and every Person so elected (or in the event of there being no Election, every Person nominated by the Governor to fill the said Vacancy or Vacancies,) shall hold Office until the Time at which the Person in room of whom he was chosen would have regularly gone out of Office, whether such Person be one of the original Councillors named in this Charter, or otherwise; and he shall then go out of Office, but shall be capable of immediate re-election, if then duly qualified: provided, that after the full Number of Councillors to be regularly elected, or in default thereof nominated or appointed, in every Year, shall have been so elected or nominated, no new Election or Nomination of Councillors shall be made by reason of such extraordinary Vacancy, unless the Number of the whole Council (Warden included) remaining after such Vacancy shall be less than Five, in which case the Number of Councillors for the District shall be completed. Extraordinary Vacancies of Councillors how filled.

XVIII. And whereas, by the said recited Act, it was further enacted, that no District Councillor should hold any lucrative Office or Appointment under such District Council, or enter into or be concerned or interested in any Contract or any pecuniary Dealings with such District Council, under a Penalty or Penalties to be fixed in the Letters Patent of Incorporation: now, We further will and ordain, that if any District Councillor shall offend in the Premises, he shall, for every such Offence, pay a Fine of 50*l.* to the Treasurer of the District Council for the Use of the District, or in default thereof, his Seat in the Council shall, after the Lapse of Ten Days, be declared to be and be vacant. Penalty on Councillors holding lucrative Office or Contracts under the Council.

XIX. And We do further will and ordain, that if any Person, being duly qualified, shall refuse to take upon himself the Office of a Councillor, after having been duly elected or nominated to such Office, every such Person shall forfeit and pay the Sum of 50*l.*, the same to be recovered by Action of Debt in the Supreme or any Circuit Court of New South Wales, on the Information of the Attorney General of the Colony, or of any qualified Penalty on Councillor refusing to act.

Encl. 2. in No. 2.

Elector of the District; the same Penalty to be paid, one Moiety to the Treasurer of the District, for the public Uses thereof, and the other Moiety to the Informer.

Questions to be decided by Majority.

XX. And We do further will and declare, that all Questions, Matters, and Things, which shall be discussed or considered at any Meeting of the said Council, shall be decided and determined by the Majority in Number of the Members present, and the Warden shall be entitled to vote thereat, and in case of an Equality of Votes shall have an additional or casting Vote: provided, however, that the said Council shall in no Case be competent to proceed to Business unless there be at least Three Members present.

General Meetings may be adjourned.

XXI. And We do further will and declare, that it shall be lawful for the said Council to adjourn any such General or Special Meeting to some future Day, and from Time to Time, as may be necessary for disposing of the Business in hand.

Special General Meetings may be convened by Advertisement.

XXII. And We do further will and declare, that the Warden for the Time being of the said District shall and may convene Special General Meetings of the said Council, either by his own Desire or at the Request in Writing of any Three Councillors of the said District, provided that public Notice thereof, and of the Purpose for which such Meeting shall be so convened, be given at least Ten Days previously, in the "New South Wales Government Gazette;" and in every Case a Summons to attend such Special Meeting, signed by the Warden, shall be left at the usual Place of Abode of every Member of Council, or sent to him by Post Three clear Days at least before such Meeting; and no Business shall be transacted at such Meeting other than is specified in such Notice.

General Meetings to be held quarterly.

XXIII. And We do further will and ordain, that the said Council shall on the first Tuesday in the Months of March, June, September, and December, in each and every Year, hold a General Meeting of the Members of the said Council, for the Despatch of Business, in conformity with the Provisions of the said Act, at such Place within the said District as the said Council may determine.

Books to be kept at a fixed Office.

XXIV. And We do further will and direct, that all Bye Laws, Rules, and Regulations, Orders, and Proceedings of the said Council shall be entered in a Book or Books to be kept for that Purpose, and shall be signed by the Warden for the Time being, and that such Book or Books shall be carefully preserved, and kept at the Office of the said Council.

Appointment of Committees.

Quorum and Chairman.

XXV. And We do further will and ordain, that the said Council shall have Power to appoint One or more Committee or Committees of their Number for the Despatch of such Business as may be specially referred to any such Committee, but that no such Committee shall be competent to proceed to Business unless Three Members at the least of such Committee be present during the whole of the Meeting thereof, nor until such Committee shall have made Choice of a Chairman to preside at such Meeting; and all Questions, Matters, and Things which shall be discussed or considered at any Meeting of such Committee shall be determined by the Majority in Number of the Members present; and the Chairman, in case of an Equality of Votes, shall have an additional or casting Vote: Provided always, that the Acts of every Committee shall be submitted to the Council for their Approval or otherwise as they may determine.

District Officers to give Security.

XXVI. And We do further will and ordain, that the said Council shall require the Treasurer and such other Officers of the Council as they may think necessary, to enter into Bond, with Two or more sufficient Sureties, for the safe keeping of the Monies and other Property belonging to the said Council which may be entrusted to their Care, for such Amount in every Case as the said Council may determine, before they shall commence the Duties of their respective Offices; and such Bonds shall be safely kept by the said Council to be used in case of Need.

Treasurer to pay no Money, except by Order of Council.

XXVII. And We do further will and ordain, that the said Treasurer shall pay no Money on account of the said Council except on the Order in Writing of the Warden, or of at least Three Members of the Council, or on the Order of the Governor of the Colony, pursuant to the Enactments contained in the before recited Act, passed in the 5th and 6th Year of Our Reign, intituled "An Act for the Government of New South Wales and Van "Diemen's Land."

Treasurer to lay Accounts before General Meeting.

Committee to audit Accounts.

Copy of audited Accounts to be transmitted to the Governor, and published in Government Gazette.

XXVIII. And We do hereby further will and ordain, that the Treasurer of the said Council shall, at the General Meeting of the same on the first Tuesday in the Month of March in each Year, lay before the said Council an Account in Writing of all the Sums of Money received, paid, laid out, and expended by him as such Treasurer, such Account being made out from the 1st Day of January to the 31st Day of December, both inclusive, in the Year next preceding; and that the said Council shall thereupon appoint a Committee for auditing the said Accounts, before which Committee the said Treasurer shall produce all his Books, Papers, Receipts, and Vouchers relating to the said Account; and the said Committee shall report to a General Meeting of the said Council, to be specially convened for that Purpose, on or before the 1st Day of April then next ensuing, upon the said Treasurer's Account, when the same shall either be approved, or otherwise, as the Case may require, and a Copy of such audited Account, certified by the Warden to be a true Copy, shall be forthwith transmitted to the said Governor, and the same shall be published in the New South Wales "Government Gazette," for general Information.

In

In testimony whereof, We have caused these Letters to be made Patent, and the Seal of Our said Colony to be hereunto attached.

Witness, Our trusty and well-beloved Sir George Gipps, Knight, Our Captain General and Governor-in-Chief of Our Territory of New South Wales and its Dependencies, and Vice Admiral of the same, this

(L. S.)

(Signed) GEORGE GIPPS, Governor.

By his Excellency's Command.

(Signed) E. DEAS THOMSON.

(A.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, 10th Oct. 1843.

4. Police Expenditure for the Year 1844.—Mr. Windeyer, pursuant to Notice, moved the following Address to his Excellency the Governor:—

We, Her Majesty's most dutiful and loyal Subjects, the Members of the Legislative Council of New South Wales, in Council assembled, beg to lay before your Excellency the following Resolution:

"That in the present State of the Colony it is highly inexpedient if not impossible to cast any Portion of the Police Expenditure on the Country Districts; that this Expenditure therefore for the Year 1844 be defrayed, as hitherto, out of the general Revenue."

We further beg to inform your Excellency that the above Resolution originated in a Committee of the whole Council on the Estimates for the Year 1844, and was therein unanimously agreed to, as well as afterwards by the full Council, on the 6th instant.

Moved as an Amendment that the Words "nemine contradicente" be substituted for the Word "unaminously."

Address adopted as so amended; to be presented by the Colonial Secretary and the Commander of the Forces.

(B.)

4. Police Expenditure for the Year 1844.—The following Message from his Excellency the Governor received and read:—

Message from his Excellency the Governor to the Legislative Council, replying to an Address from the Council, wherein it was communicated to his Excellency that the Council had resolved, that "in the present State of the Colony it is highly inexpedient if "not impossible to cast any Portion of the Police Expenditure on the Country Districts; "that this Expenditure therefore for the Year 1844 be defrayed as hitherto out of the "general Revenue."

Gentlemen,

By the 47th Clause of the Act of Parliament for the Government of New South Wales (5 & 6 Vict. c. 76.), it is enacted, that One Half of the Expense of the Police Establishment of the Colony shall be defrayed out of the general Revenue and the other Half by Assessments on the different Districts of the Colony in such Proportions as shall be from Time to Time fixed by the Governor and Legislative Council. According therefore to this 47th Clause an Act of the Governor and Council ought to be passed in every Year declaring the Amount to be assessed on each District of the Colony.

In the Estimates now under the Consideration of the Council the Sums set down for the Maintenance of the Police in the Country Districts collectively amount to 38,260*l.*; and in a separate Paper which has been printed by Order of the Council the Proportions are shown in which it was proposed that the Half of this Sum, or 19,130*l.*, should be charged on the Districts severally.

The Council has, however, now presented me an Address, announcing to me that, in the Opinion of the Council, "it is highly inexpedient if not impossible in the present State of "the Colony to cast any Portion of the Police Expenditure on the Country Districts;" and intimating a Desire that the whole Expenditure for the Country Districts shall continue, during the Year 1844, to be defrayed as hitherto out of the general Revenue.

The 48th Clause of the Act already referred to appears to have been intended by Parliament to meet a Case in which the Legislative Council might fail to comply with the Requirements of the preceding or 47th Clause; but owing to what may have been an Error of the Printer, the real Object of this Clause is scarcely to be collected from the Words of it.

I am, however, Gentlemen, well aware that you have adopted the Resolution communicated to me by your Address with no Intention of contravening an Act of Parliament, but solely from a Desire to relieve the Country Districts of the Colony from Charges which, under existing

Encl. 2. in No. 2.

existing Circumstances, you think they are unable to bear; and as I cannot but be also of opinion that the District Councils could not, so soon after their Formation, raise without great Difficulty the Sums which would be necessary to defray Half the Police Expenses of their respective Districts, in addition to the other Sums to be raised for the Services which, by the Act, they are required to provide for, I am willing to share with the Legislative Council the Responsibility of postponing for a Year a Compliance with the Requirements of the 47th Clause of the Act of Parliament; and accordingly I have, Gentlemen, to invite you to appropriate out of the general Revenue of the Colony, either the Sum set down in the Estimates or such smaller Sum as you may think sufficient, to defray the Expenses of an efficient Police within the rural Districts of the Colony, without calling on those Districts during the Year 1844 for the Contributions which, under the Act of Parliament, ought to to be required from them.

Government House, 12th October 1843. (Signed) GEORGE GIPPS.

Message to be considered in Committee To-morrow.

(C.)

7 VICTORIA, 1843.

A BILL to alter the QUALIFICATION required by Law for MEMBERS of DISTRICT COUNCILS, in the Colony of NEW SOUTH WALES.

Preamble.

WHEREAS by an Act of the Imperial Parliament passed in the Fifth and Sixth Year of the Reign of Her present Majesty, intituled "An Act for the Government of New South "Wales and Van Diemen's Land," Provision was made for the Establishment of District Councils within the Colony of New South Wales; and it was by the said Act provided, "that until further Provision be made in this Behalf by the Governor and Legislative "Council of the Colony of New South Wales, the District Councillors shall be Persons "qualified to be elected Members of the Legislative Council, and shall be elected unto "such Office by the Persons qualified to vote in the Election of Members of the Legislative "Council within the District in which the Election is made:" And whereas it is expedient to make further Provision in this Behalf: Be it therefore enacted by his Excellency the Governor of New South Wales, with the Advice and Consent of the Legislative Council thereof, that from and after the passing of this Act so much of the said recited Act of Parliament as relates to the Qualification of Members of the said District Councils shall be and that the same hereby is repealed.

Former Qualification of District Councillors repealed.

New Qualification required.

II. And be it enacted, That from and after the passing of this Act no Person not a natural-born Subject of Her Majesty, and no Person not of the full Age of Twenty-one Years, and no Person in Holy Orders, or being a regular Minister of any religious Congregation, shall be qualified to be elected or nominated a District Councillor; nor any Person who shall not be seised or possessed of Real or Personal Estate within the Colony of New South Wales, or of a mixed Estate, partly Real and partly Personal, to the Amount of , either in his own Right or in that of his Wife, or who may not have been rated for the Purposes of the District Council of which he is elected or nominated a Member upon Property of the annual Value of 50*l.*, for Twelve Months at least prior to the Day of his Election or Nomination.

Members of District Councils to take the Oath of Allegiance, and make a Declaration of their Qualification.

III. And be it enacted, That no Person elected or nominated to be a District Councillor shall be capable of acting as such until he shall have taken before the Warden of the District, or before some Person deputed by the Warden to administer the same, the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and shall have made and subscribed the following Declaration:—

'I *A.B.* having been elected (or nominated) a Councillor for the District of ,
'do hereby declare that I take the said Office on myself, and will duly and faithfully fulfil
'the Duties thereof according to the best of my Judgment and Ability; and (in case of the
'Party being qualified by Estate) I do hereby declare that I am seised or possessed, either
'in my own Right or in that of my Wife, of an Estate, Real or Personal, to the Amount
'of over and above what will satisfy my Debts; and that I have not fraudu-
'lently or collusively obtained the same, in order to qualify me for the Office to which I
'have been elected or nominated.'

Declaration to be repeated yearly if required.

And every Person who shall have made and subscribed such Declaration in respect of Estate, shall once in every Year, if required in Writing so to do by any Five Electors of the District, make and subscribe a Declaration that he is qualified to the like Amount in Real or Personal Estate, or both, as the Case may then be.

Penalty for neglecting or refusing to make Declaration, or for making it falsely.

IV. And be it enacted, That if any Person, when duly called on to make such Declaration, shall refuse or neglect to make it, he shall after the Expiration of Fourteen Days, reckoned from the Day on which he is so called on, cease to be a Member of the Council; and if any Person shall make the said Declaration falsely, knowing at the Time that such Declaration

Declaration is false, he shall and may be adjudged, by any competent Court, to have been guilty of a Misdemeanor, and be punished accordingly. Encl. 2. in No. 2.

V. And be it enacted and declared, That no Proceedings of any District Council shall be vitiated or invalidated by reason only that a Person or any Number of Persons not duly qualified by Law may have acted as a Member of and voted in such Council prior to the passing of this Act. Past Proceedings valid notwithstanding unqualified Persons may have acted as Councillors.

VI. And be it enacted, That at no Time after the passing of this Act shall any Proceedings of any District Council be held to be vitiated or invalidated by reason only that any Person or Number of Persons not duly qualified by Law may have taken part in such Proceedings, unless such Person or Persons may have been required to make the Declaration herein-before required to be made by Members of such Councils, and shall have refused or neglected to make it. Future Proceedings not to be invalid by reason only of unqualified Persons having acted as Councillors.

(D.)

8 Victoria, 1844.

A Bill to make further Provision respecting the Constitution, and to define and extend the Powers, of District Councils in the Colony of New South Wales.

Whereas by an Act of the Imperial Parliament passed in the Fifth and Sixth Year of the Reign of Her present Majesty, intituled "An Act for the Government of New South "Wales and Van Diemen's Land," certain Provisions were made for the local Government of the different Parts of the said Colony of New South Wales, and in pursuance of the same his Excellency Sir George Gipps, as Governor of the said Colony, hath issued several Letters Patent, under the Great Seal of said Colony, to form Districts, and incorporate the Inhabitants of each such District, and establish Councils in the same for the local Government thereof respectively: Be it enacted by the Governor and Legislative Council of New South Wales, and by virtue of the Authority conveyed to them by the said Act, that the said Districts so incorporated shall be capable in Law of suing and being sued, and of purchasing and holding Land and Tenements situate within the Limits of such District for the Use of the Inhabitants of the same, and of making and entering into such Contracts and Agreements as may be necessary for the Exercise of its corporate Functions, and that the Powers aforesaid shall be exercised by and through and in the Name of the Council of every such District. Preamble. 5 & 6 Vict. c. 76. Incorporated Districts may sue and be sued, and purchase and hold Lands within the Limits of their Districts.

II. Provided always, and be it enacted, That it shall not be lawful for any District so incorporated as aforesaid to exercise any other Powers of a Corporation, except such as are in said Letters Patent or are herein-after mentioned, or such as shall be expressly conferred by the Governor and Legislative Council of New South Wales, or such as shall be necessary for the due Execution of the Powers in said Letters Patent or herein granted. Incorporated Districts to exercise only the Powers specially granted to them.

III. And whereas it is expedient to alter the Qualification of Members who are or shall be elected Members of such District Councils: Be it enacted, That from and after the passing of this Act so much of the said recited Statute as relates to the Qualification of Members of the said District Council shall, by virtue of the especial Authority given by the said Statute to the Governor and Council of New South Wales, be and the same is hereby repealed. 5 & 6 Vict. c. 76. as regards Qualifications repealed.

IV. And be it enacted, That from and after the passing of this Act no Person not a natural-born Subject of Her Majesty, and no Person not being of the full Age of Twenty-one Years, and no Person in Holy Orders or being a Minister of any Religious Sect or Congregation, nor any Person accountable for the District Revenues, nor any Person receiving any pecuniary Allowance from the District for his Services, nor any Person having directly or indirectly, by himself or his Partners, any Contract or any Share or Interest in any Contract with or on behalf of the District, shall be qualified to be elected to or to hold the Office of Councillor in any such District Council, nor any Person who shall not be seised or possessed of Real or Personal Estate within the Colony of New South Wales, or of a mixed Estate, partly real and partly personal, to the Amount of , either in his own Right or that of his Wife, or who has not been rated for the Purposes of the District Council of which he shall be nominated or elected a Member upon Property of the annual Value of for Twelve Months at least prior to the Day of his Election or Nomination. Persons disqualified. Qualification.

V. And be it enacted, That no Person elected or nominated to be a District Councillor shall be capable of acting as such until he shall have taken before the Warden of the District, or before some Justice of the Peace deputed by the Warden to administer the same, the Oath of Allegiance to Her Majesty, Her Heirs and Successors, and shall have made and subscribed the following Declaration:— Oath of Allegiance and Declaration of Acceptance of Office.

'I A.B., having been elected (or nominated) a Councillor for the District of
'do hereby declare, That I take the Office of a Councillor on myself, and will duly and
'faithfully fulfil the Duties thereof according to the best of my Judgment and Ability; and

Encl. 2. in No. 2.

'(in case of the Party being qualified by Estate) I do hereby declare, that I am seised 'or possessed, either in my own Right or in that of my Wife, of an Estate, Real or Per- 'sonal, to the Amount of over and above what will satisfy my Debts, and 'that I have not fraudulently or collusively obtained the same in order to qualify me for 'the Office to which I have been elected or nominated.'

And every Person who shall have made and subscribed such Declaration in respect of Estate shall once in every Year, if required in Writing so to do by any Five Electors of the District, make and subscribe a Declaration before the Warden, and at such Time and Place as the said Warden may appoint, that he is qualified to the like Amount in Real or Personal Estate, or both, as the Case may then be.

Persons refusing to make Declaration as to Qualification to cease to be Members and pay a Fine, except on Proof of being disqualified.

VI. And be it enacted, That if any Person, when duly called on by the Warden to make such Declaration, shall refuse or neglect to make it, the Person so refusing or neglecting shall, after the Expiration of Fourteen Days, reckoned from the Day on which he is so called on, cease to be a Member of the Council, and shall be liable to pay the Fine specified in said Letters Patent for such Refusal, unless he make Declaration before the Warden that he does not possess the required Qualification; and the said Office shall thenceforward be deemed to be vacant, and shall be filled up by another Election or Nomination; and if any Person shall make Declaration falsely, either that he does or does not possess the required Qualification, knowing at the Time that such Declaration is false, he shall and may be adjudged by any competent Court to have been guilty of a Misdemeanor, and be punished accordingly.

How Seats may become vacant.

VII. And be it enacted, That if any Member of any District Council shall for One entire Year fail to give his Attendance in the said Council, without the Permission of the Governor of the said Colony, signified by the said Governor to the Warden of the District, or shall take any Oath or make any Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to any Foreign Prince or Power, or shall do, concur in, or adopt any Act whereby he may become a Subject or Citizen of any Foreign State or Power, or shall become insolvent or make any Assignment of his Goods for the Benefit of his Creditors, or accept any Letter of Licence from his Creditors, or become a public Defaulter, or be attainted of Treason, or be convicted of Felony or any infamous Crime, or shall become non compos mentis, his Seat in such Council shall thereby become vacant.

Proceedings before the passing of this Act not to be void on account of Councillors not being qualified.

VIII. And be it enacted and declared, That no Proceedings of any District Council shall be held to be vitiated or invalidated by reason only that a Person or any Number of Persons not duly qualified by Law may have acted as a Member of and voted in such Council prior to the passing of this Act.

No Proceedings after the passing of this Act to be invalid on account of Councillors not being qualified, unless they may have refused to make the Declaration when required to do so.

IX. And be it enacted, That at no Time after the passing of this Act shall any Proceedings of any District Council be held to be vitiated or invalidated by reason only that any Person or Number of Persons not duly qualified by Law may have taken Part in such Proceedings, unless such Person or Persons may have been required to make the Declaration herein-before required to be made by Members of such Councils, and shall have refused or neglected to make it.

In case of Refusal to make Declaration of Qualification the Warden to give Notice of new Election.

X. And be it enacted, That in Cases where any Person duly elected to the Office of Councillor in any of said Districts shall refuse to accept such Office, or shall refuse or neglect to take and subscribe the above-mentioned Declaration, it shall and may be lawful for the Warden of such District, as often as such Case shall occur, to proceed after Days Notice in this Behalf to the Electors qualified to vote, to be posted on the Doors of the Court House or Court Houses in the District, to another Election of a fit and proper Person to supply the Place of the Person who shall have so refused or neglected to accept Office, or take and subscribe the said Oaths; and the Councillor who may be elected at such new Election shall hold Office until the Time at which the Person in whose Place he may have been elected would, according to the Provisions in said Letters Patent contained, have gone out of Office, and no longer: Provided however, that nothing herein contained shall be held to repeal or affect the Provision in the several Charters establishing District Councils, by which it is provided, that after the full Number of Councillors to be regularly elected, or in default thereof nominated or appointed, in every Year, shall have been so elected or nominated, no new Election or Nomination of Councillors shall be made by reason of such extraordinary Vacancy, unless the Number of the whole Council (Warden included) remaining after such Vacancy shall be less than Five, in which Case the Number of Councillors for the District shall be completed.

Proviso in Clause 17.

Petitions against undue Returns.

XI. And be it enacted, That all Complaints of the undue Return of Members to serve in any District Council shall be addressed in the Form of a Petition to the Warden and Councillors of such District; and that no Petition shall be noticed, nor any Proceedings had thereon, unless it shall be addressed to the said Warden and Councillors by a Person who was a Candidate at the Election whereof it may be alleged that an undue Return has been made, or by a Number of Persons who either voted, or were qualified to have voted at the said Election, amounting to not less than One Tenth of the whole Number on the List of Electors; and no Petition shall be noticed which shall not be received by the Warden within Ten Days from the Day on which the Result of the Election may have been declared by the Warden.

XII. And

Encl. 2. in No. 2.

XII. And be it enacted, That within Twenty-one Days after any such Petition shall have been received by the Warden the Petition shall be referred by the Warden to the Council; and in deciding on the Merits of such Petition the Council shall have Power to regulate its own Proceedings, and shall be guided by the Principles of good Faith and Equity, and shall receive or reject, at their Discretion, any Evidence that may be tendered to them, and shall have Power to compel the Attendance of Witnesses, and to examine them on Oath; and if the said Council shall declare that any Person was not duly elected who was returned as elected, the Person so declared to have been not duly elected shall cease to be a Member of the said Council; and if the said Council shall declare that any Person was duly elected who was not returned as elected, the Person so declared to have been duly elected shall be sworn a Member of the said Council, and take his Seat accordingly; and if the said Council shall declare any Election to have been absolutely void, it shall be lawful for the Warden to proceed to a new Election.

Proceedings of Council on Petitions.

XIII. And be it enacted, That the Decision of every District Council shall, in Matters of disputed Elections, be final and without Appeal, and that their Proceedings may be conducted in a summary Manner.

Decision to be final and Proceedings summary.

XIV. Provided, however, and be it enacted, That no Person whose Seat may be in dispute shall take part in any such Proceedings.

Members whose Seats may be in dispute not to take part in Proceedings.

XV. And be it enacted, That from and after the passing of this Act the Warden, or in his Absence the Chairman appointed to preside at any Meeting of such Council, shall be entitled to vote on all Questions, but such Warden or Chairman shall not be entitled to have a double Vote on any Question, anything in said Letters Patent to the contrary notwithstanding.

Warden not to have double Vote.

XVI. And be it enacted, That if at any Time a District Councillor shall accept the Office of Warden, either of his own or of any other District, his Office of District Councillor shall thereby become vacant, in the same way as it would become vacant were he naturally dead.

Councillor becoming Warden, Seat vacant.

XVII. And be it enacted, That the Meetings of the Council of each District respectively shall be open to the Public, under Regulations to be made by such Councils, and, except as herein-after excepted, shall be held at some fixed Place within each District, to be provided and appropriated for the Purpose.

Meetings of Council to be open to the Public.

XVIII. And be it enacted, That Minutes of the Proceedings of all the Meetings of the said Councils shall be drawn up and fairly entered in a Book to be kept for that Purpose by the Clerks of the said Councils respectively, and such Minutes shall be signed by the Warden or temporary Chairman who shall preside at the Meeting.

Minutes of Proceedings to be kept.

XIX. And be it enacted, That all other Books of each District Council respectively in which the Bye Laws, Rules, Orders, Regulations, Minutes, or other Proceedings are entered shall be open to Inspection by any Elector of the District at all reasonable Times, on Payment of a Fee not exceeding One Shilling.

Books to be open to Inspection.

XX. And whereas certain Powers and Authorities are now vested in Justices of the Peace by an Act of the Legislative Council passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act to repeal an Act of the Governor "and Council of New South Wales, intituled 'An Act to authorize the Erection of "'Pounds, and for regulating the impounding of Cattle,' and to make further and other "Provision in lieu thereof;" and also by another Act passed in the Fourth Year of the Reign of Her present Majesty, being an Act to amend the said Act herein-before recited; and it is expedient that the same should be transferred to the District Councils of the several Districts: Be it enacted, That all the Powers and Authorities now vested in the Justices of the Peace of each District respectively by the said recited Acts shall respectively be and are hereby transferred to and vested in and may be exercised by the District Council of each District respectively within the Limits thereof, and that all Duties required by the said recited Act or Acts to be performed by the Clerk of Petty Sessions, and all Accounts and other Things required to be furnished to him for the Information of such Justices, shall be henceforward performed by and furnished to the Clerk of the District Council of the Locality.

Certain Powers transferred to District Councils.

4 Will. 4. No. 3.

4 Vict. No. 1.

XXI. Whereas by an Act of the Governor and Legislative Council passed in the Fourth Year of the Reign of Her present Majesty, intituled "An Act to provide for the making "and repairing of Parish Roads in the Colony of New South Wales," certain Provisions were made for the Election and Appointment of Trustees for Parish Roads: And whereas it is deemed expedient that the same should be repealed, for the Purpose of allowing the District Councils to act and be ex-officio Trustees within their respective Districts in the Place of Trustees elected or to be elected in pursuance of said Provisions: Be it enacted, That from and after the Day of next so much of the said recited Act as relates to the Election of Trustees for Parish Roads shall be and is hereby repealed.

4 Vict. No. 12. repealed in regard to the Appointment of Trustees.

XXII. And be it enacted, That from and after the said Day of the District Councils in their several Districts shall be ex-officio Trustees of all Parish Roads

District Councillors to be ex-officio Trustees of Parish Roads.

Encl. 2. in No. 2.

Roads within their several Districts, with as full and ample Powers and Authorities as Trustees who have been or might have been elected under and by virtue of the aforesaid Provisions of the said last-recited Act; and the said several District Councils and their Officers shall have the same Powers and Authorities and shall be liable to the same Duties in respect to the Parish Roads within the Limits of the respective Districts as are given to and imposed upon elected Trustees by the same.

Powers of District Surveyors extended.

XXIII. And be it enacted, That the District Surveyor of each District shall have the same Powers, Authorities, and Duties in respect to Parish Roads as the Surveyor or Surveyors appointed or to be appointed under and by virtue of said last-recited Act.

Councils of the Districts of Sydney and Bourke may sit in the City of Sydney and Town of Melbourne.

XXIV. And whereas it may be expedient for the District Councils of Sydney and Bourke to hold their Meetings within the Limits of the City of Sydney and the Town of Melbourne respectively: Be it enacted, That it shall and may be lawful for the Council of the District of Sydney to assemble for the Business of the Council within the Limits of the City of Sydney, and for the Council for the District of Bourke to assemble for the same Purpose within the Limits of the Town of Melbourne.

Assessments.

XXV. And be it enacted, That each of the said District Councils shall assess all Tenements and Lands whatsoever within their respective Districts, whether cultivated or uncultivated, cleared or uncleared, (Crown Lands excepted,) according to the full and fair annual Value of the same, or according to the Profit to be derived from or the Rent which would be given for them by a prudent and solvent Tenant; provided, however, that the annual Value of uncultivated, waste, or uncleared Land shall not be valued or assessed at less than pence per Acre per Annum.

Rates payable by Occupiers.

XXVI. And be it enacted, That on the Assessments so made Rates shall be levied by the District Councils, and that such Rates shall be raised on such Assessments equally or at such a Number of Pence in the Pound as may be fixed from Time to Time by the said Councils, or any of them; and such Rates shall be paid by the Occupiers or Persons in possession (whether Owners or Tenants) of the Lands so assessed, to the Collectors to be appointed for that Purpose by said Councils respectively; and if any such Occupier shall neglect or refuse to pay to any such Collector the Money or Rate due by him or her for the Space of Fourteen Days next after the same shall have been demanded by such Collector, either personally or by a written Notice left at the last or usual Place of Abode of such Occupier, if such Place can be found within the District, but if not, then by posting a Notice of such Demand on some conspicuous Place on said Lands so assessed, such Money shall be levied and recovered from every such Occupier so neglecting or refusing to pay the same, by Distress and Sale of the Goods and Chattels, Lands and Tenements of such Occupier so in default, by Warrant under the Hand and Seal of a Justice of the Peace, who, on Proof upon the Oath of such Collector of such Demand or Notice, and of such Neglect or Refusal, shall be and is hereby empowered and required to issue the same; and the Surplus, if any, of the Monies raised by such Distress and Sale shall be paid on Demand to the Owner of the Goods and Chattels, Lands and Tenements, so distrained and sold, after deducting all Costs, Charges, and Expenses attending or preparatory to such Distress and Sale, the same to be ascertained by such Justice; and in default of such Distress it shall be lawful for such Justice to commit such Defaulter to the nearest Gaol or House of Correction, there to remain without Bail for any Time not exceeding Three Calendar Months, unless Payment of such Sum or Sums of Money as shall have been found to be due and in arrear upon such Assessment as aforesaid, together with all Costs, Charges, and Expenses, to be ascertained by such Justice, shall be sooner paid.

Recovery of Rates from Absentees.

XXVII. Provided always, and be it enacted, That if any Owner or Occupier of any Land situate within any such District does not reside thereon, or in any Place within the Limits of such District, and in case there be not sufficient Goods or Chattels of such Owner or Occupier within the District to distrain upon for the Payment of any Rates due and owing on such Land, under and by virtue of this Act, or of any Bye Law passed by such District Council, it shall and may be lawful for the Council for the District in which such Land shall be situated, to sue such Owner or Occupier for the Recovery thereof, in any Court of competent Civil Jurisdiction in the said Colony.

Rates to be levied on Sheep, &c.

XXVIII. And be it enacted, That it shall and may be lawful for each of said District Councils to levy Rates upon all Sheep, Cattle, Horses, and Dogs within the Limits of their respective Districts, at such Sum per Head for each Animal as may be fixed by a Bye Law for that Purpose to be passed by the Council.

Payment or Recovery of Rates.

XXIX. And be it enacted, That the last-mentioned Rates shall be paid by the Agisters or other Persons in possession of such Sheep, Cattle, or Horses, whether Owners or not, and by the Owners of Dogs, to the Collectors for that Purpose to be appointed by said District Councils; and if any such Agister or other Person in possession of such Animals, or their Owners, shall neglect or refuse to pay to any such Collector the Money so assessed on the aforesaid Animals for the Space of Fourteen Days next after the same shall have been demanded by such Collector, either personally or by a written Notice left at the last or usual Place of Abode of such Agister or other Person in possession of such Animals,

Animals, or the Owners thereof, if such Place can be found within the District, but if not, then by posting a Notice of such Demand on some conspicuous Place on the Lands or Place where such Animals are kept, such Money shall be levied and recovered by Distress and Sale of a sufficient Number of the Animals aforesaid themselves so rated, by Warrant under the Hand and Seal of a Justice of the Peace, who, on Proof upon the Oath of such Collector of such Demand and Notice, and of such Neglect or Refusal to pay, shall be and is hereby empowered to issue the same; and the Surplus, if any, of the Monies raised by such Distress and Sale shall be paid on Demand to the Owners of such Animals, or the Person having them in possession, after deducting all Costs and Expenses attending or preparatory to such Distress and Sale, the same to be ascertained by such Justice. Encl. 2. in No. 2.

XXX. And whereas by a certain Act of the Governor and Legislative Council of said Colony passed in the Fourth Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for making, altering, and improving the Roads throughout the Colony "of New South Wales, and for opening and improving the Streets in the Towns thereof," certain Powers, Duties, and Indemnities are imposed and conferred upon the said Surveyor General and his Assistants: And whereas it is expedient that similar Duties, Powers, and Indemnities should be extended to District Surveyors, or to Surveyors acting under the Directions of any District Council: Be it enacted, That all the Duties, Powers, or Indemnities which by the last-recited Act were imposed or conferred upon the Surveyor General and his Assistants shall be and hereby are conferred on and extended to District Surveyors or Surveyors acting under the Direction of any District Council; provided, however, that nothing herein contained shall be held in any way to impair or invalidate the Powers and Indemnities which by the said last-recited Act were conferred on the Surveyor General and his Assistants when actually engaged in the Execution of any public Duty, or interfere in any way with the Duties and Powers of the Surveyor General in the laying out of Roads throughout the Colony. 4 Gul. 4. No. 11.

XXXI. And whereas by an Act of the Governor and Legislative Council of New South Wales, passed in the Second Year of the Reign of His late Majesty King William the Fourth, intituled "An Act for repealing so much of an Act, intituled 'An Act to continue, "'until further Provision shall be made, certain Duties, Tolls, Rates, Fees, and other "'Sums of Money imposed by the Governors of New South Wales, and for other Pur-"'poses,' as relates to the levying of Tolls in New South Wales, and for raising a Fund "towards making, repairing, and upholding public Roads, Bridges, and Ferries, and for "regulating the Collection of Tolls thereon," Authority was conferred on the Governor of said Colony for the Time being to appoint by Proclamation under his Hand, Places at which Tolls should be collected upon certain Lines of Road, and to cause Tolls to be collected at certain Bridges and Ferries; and to cause Toll Houses and Ferry Houses, Gates, Bars, Chains, Rails, and Fences to be built and set up, to prevent Passengers, Beasts, and Carriages from passing without the Payment of Toll: And whereas in pursuance of that Authority Tolls have been established upon divers Roads and Bridges in Parts of said Colony, and Toll Houses, Ferry Houses, Gates, Bars, Chains, Rails, and Fences have been built and set up for the Purpose aforesaid: And whereas it is expedient that the Property in the same, and the Right to collect and cause such Tolls to be collected, should henceforward be vested in the District Council of the District in which they are situated: Be it enacted, That from and after the Day of next the Right, Interest, and Property of and in all Tolls (save as herein-after excepted) which have been established on any public Road or Bridge, and of and in all Toll Houses, Ferry Houses, Gates, Bars, Chains, Rails, and Fences built and set up in pursuance of said last-recited Act shall be and are hereby vested in each District Council for the District in which they may respectively be and are situate, and each such District Council shall be and is hereby authorized and empowered to apply and dispose of the same as they may think fit within their respective Limits, and to bring or cause to be brought any Action or Actions or other Civil Proceedings, and to prefer and prosecute or cause to be preferred and prosecuted any Informations, Charges, or Indictments against any Person or Persons who may evade or attempt to evade any Provision or Provisions of said last-recited Act, or who shall break or pull down, steal, take, carry away, spoil, destroy, damage, or in anywise injure any of the Roads, Bridges, Toll Houses, Ferry Houses, or any Buildings, Toll Boards, Bars, Gates, Posts, Rails, Fences, or other Things, or any of the Conveniences or Appurtenances thereunto belonging, or shall interrupt such District Council or any of its Officers in the Duties in respect thereto or in the Possession thereof; in all which Proceedings it shall be sufficient to state generally any or all of said Things to be the Property of the District Council of the particular Locality. Tolls. 2 Will. 4. No. 12.

XXXII. And be it enacted, That it shall and may be lawful for the several District Councils to exercise all the Powers conferred on the Governor of said Colony in respect to the Establishment of Tolls or Ferries, or the levying or leasing thereof, and the Erection of Toll Houses, Ferry Houses, Gates, Bars, Chains, Rails, and Fences upon any public Road or Bridge within their respective Limits; provided always, that no such Toll Houses, Turnpike Gates, or Bars shall be erected within a less Distance than Five Miles from the extreme Boundary of every such District, and that no Ferry shall be established over any River or Water of which the opposite Banks shall be in different Districts, without special Authority from the Governor and Legislative Council. Powers of erecting Toll Houses, &c. transferred to the Councils.

Right to take Toll declared.

XXXIII. And be it enacted, That it shall and may be lawful for the said several Councils, or any Person or Persons appointed or authorized by such Councils as Collector or Collectors or Lessees of the Tolls to be taken by virtue of the said last-recited Act, to demand and take every Day the several and respective Tolls mentioned therein (or any lesser Tolls), at the several and respective Toll Gates and Ferries which have been, are, or shall be erected or established in pursuance of the same, or of this or any future Act of the Governor and Legislative Council of said Colony, upon or across any public Road, Bridge, or Ferry within their respective Limits, and which Tolls or Sums of Money shall be demanded and taken as aforesaid before any Passengers, Horses, Beasts, or Carriages, (save as is excepted in said recited Act), shall be permitted to pass through any Toll Gate, or over any Ferry; and the Tolls and Sums of Money to be collected by virtue of and in the Exercise of the Powers hereby conferred on the said District Councils and their Officers shall be and the same are hereby vested in such District Council of the Locality.

How Money taken by Toll is to be appropriated.

XXXIV. And be it enacted, That all Tolls and Sums of Money so to be levied and collected by said District Councils, under and in pursuance of the Provisions of said last-recited Act and of this present Act shall be paid over to the Treasurer of the District, for the Support of the Roads, Bridges, or Ferries in respect of which the said Tolls are taken, and for no other Purpose.

Powers of Councils limited to their respective Districts.

XXXV. And be it enacted, That it shall not be lawful for any District Council by any Bye Law to affect any Property situate and being beyond the Limits of the respective Districts, nor any Property *in transitu*, within their several Districts, which shall belong *bonâ fide* to any Person not residing in such District, or not owing any Arrears of Rates assessed on his or her Property within such District; provided however, that nothing herein contained shall prevent the Collector of such District from pursuing and seizing any Property clandestinely or fraudulently removed out of any District for the Purpose of evading a Distress for any District Rates.

Distress not unlawful for Want of Form.

XXXVI. And be it enacted, That when any Distress shall be made for any Sum or Sums of Money to be levied by any District Council, by virtue of this Act, or under and by the Authority of any Bye Law passed by such Council, and in force, the Distress itself shall not be deemed unlawful, nor the Party or Parties making the same be deemed a Trespasser or Trespassers on account of any Defect or Want of Form in Proceedings relating thereto, nor shall the Party or Parties distraining be deemed a Trespasser or Trespassers *ab initio* on account of any subsequent Irregularity on the Part of the Party or Parties distraining, but the Person or Persons aggrieved by such Irregularity may recover full Satisfaction for the special Damage by Action on the Case.

How Persons are to be punished who unlawfully resist.

XXXVII. And be it enacted, That in case any Person or Persons shall resist or make forcible Opposition to any Person or Persons employed by any District Council in the Execution of the Powers vested in such Council, or shall assault any Surveyor or Collector or Bailiff, or their respective Assistants, or shall make or attempt to make any Rescue of Goods or Chattels distrained or seized by the Authority of any District Council, every Person offending therein, and being convicted thereof before any Two Justices in a summary Way by the Oath of One or more credible Witness or Witnesses, shall for every such Offence forfeit and pay any Sum not exceeding 20*l.* nor less than 40*s.*, at the Discretion of such Justices; and in case the same shall not be paid, such Justices are hereby empowered and required to commit such Offender to any Gaol or House of Correction for any Time not exceeding Three Calendar Months, or until the said Forfeiture shall be sooner paid.

Recovery of Fines and Penalties.

XXXVIII. And be it enacted, That all Fines and Penalties imposed by any Bye Law made by any District Council, and with regard to which no special Provision is by this Act made, or by any other Act or Law already made, may be recovered with Costs, on the Oath of at least One credible Witness other than the Prosecutor, by summary Proceeding before any Two Justices of the Peace sitting at Petty Sessions within the District in which such Fine or Penalty shall have been imposed, and may, if not forthwith paid, be levied by Distress and Sale of the Goods and Chattels of the Offender, under Warrant of such Justices or One of them; and one Moiety of such Penalty shall belong to the Informer or Prosecutor, and the other Moiety to the District, unless the Informer or Prosecutor shall renounce his Portion of such Fine or Penalty, in which Case he shall become a competent Witness, and the whole Fine or Penalty shall in such Case belong to the District, and shall (as shall the Moiety in the Case first mentioned) be paid over to the Treasurer of the District, and make Part of the District Funds.

Rate-payers competent Witnesses.

XXXIX. Provided always, and be it enacted, That no Person shall be deemed incompetent to be a Witness in any Prosecution or Suit for the Recovery of any such Fine or Penalty, or in any Suit for the Recovery of any Sum of Money payable to any District, by reason of such Person being an Inhabitant or Rate-payer of the District, or a Member or Officer of the District Council, or in their Employ, provided such Person have no other and more immediate Interest in the Result of such Suit or Prosecution.

Publication of Advertisements.

XL. And whereas, by the several Charters which have been issued by his Excellency the Governor it is required that certain Advertisements be inserted in the New South Wales Government Gazette: And whereas the Insertion of Advertisements in the said Gazette

Gazette may in some Cases be inconvenient: Be it enacted, That it shall and may be lawful for any District Council, by a Bye Law to be passed for that Purpose, to cause such Advertisements to be inserted in any other Newspaper instead of the Government Gazette; provided, however, that the annual Accounts of the Treasurer of each District shall always be published in the said Gazette, as directed by the said Charters. Encl. 2. in No. 2.

XLI. And be it enacted, That it shall be lawful for any District Council, by a Bye Law to be passed for that Purpose, to make such additional Provisions for the Conduct of Elections of District Councillors, as to such District Council may seem necessary; provided, however, that such additional Provisions be not repugnant to this Act, nor to any Law in force within the Colony, nor to the Charter under which such District Council was established. District Councils may make additional Provisions for the Conduct of Elections.

XLII. And be it declared and enacted, That if in any Bye Law already passed by any District Council any Matter or Thing shall be contained contrary to the Enactments of this present Act, such Matter or Thing shall by the passing of this Act be held to be repealed, and shall thenceforward be null and of no Effect. Bye Laws already passed.

XLIII. And be it enacted, That nothing in this Act shall be construed to repeal or affect any Enactment or Provision of any Act or Law in force within the said Colony, or any Power, Right, Authority, Duty, Obligation, or Liability thereby conferred or imposed upon any Officer, Officers, Person or Persons, unless and so far only as such Enactment or Provision shall be inconsistent with or repugnant to the express Enactments or Provisions of this Act, or the Attainment of the Objects and Purposes thereof, according to its true Intent and Meaning. Limitations.

(E.)

8 Victoria, 1844.

A Bill to settle the Proportions in which Money shall be raised in each District of the Colony of New South Wales by Assessments for the Purpose of defraying Half the Expense of maintaining a Police Force.

Whereas by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the Fifth and Sixth Years of Her Majesty's Reign, intituled "An Act for the Government "of New South Wales and Van Diemen's Land," it is enacted, that one Half of the Expense of the Police Establishment of the Colony of New South Wales (exclusive of the Convict Establishment,) shall be defrayed out of the General Revenue arising from Taxes, Duties, Rates, and Imposts within the said Colony, and the other Half shall be defrayed by Assessment on the several Districts of the Colony, in such Proportions as shall be from Time to Time fixed by the Governor and Legislative Council: And whereas it is necessary to fix the Proportions in which the Sums required for the Payment of One Half of the Expense of maintaining a Police Force shall be raised in the different Districts of the Colony, during the Year 1845: Be it therefore enacted by his Excellency the Governor of New South Wales, with the Advice and Consent of the Legislative Council thereof, That there shall be levied by Assessment, within the several Districts of the Colony incorporated by any Charter issued by the said Governor, under the Provisions of the said Act, and also within the City of Sydney and Town of Melbourne, the Sums which stand respectively against the Names of the said Districts, City, and Town, in the Schedule to this Act annexed. Preamble. 5 & 6 Vict. c. 76. Sums to be raised in the several Districts as in Schedule annexed.

II. And be it enacted, That for the Purposes of this Act the Mayor and Council of the City of Sydney, and the Mayor and Council of the Town of Melbourne, are authorized and required to perform the Duties which in other Parts of the Colony are performed by the respective Wardens and Councils of the several Districts into which the Colony is divided. Mayors and Councils of Corporate Towns to act as Wardens and Councils in other Districts.

III. And whereas, under the Provisions of an Act of the Governor and Council of New South Wales passed in the Second and continued and amended by an Act passed in the Fifth Year of the Reign of Her present Majesty, which latter Act is intituled "An Act to "amend and to continue for Five Years an Act, intituled 'An Act to further restrain the "'unauthorized Occupation of Crown Lands, and to provide the Means of defraying the "'Expense of a Border Police,'" an Assessment is in some Cases levied on Stock depastured on Crown Lands lying within the Limits assigned to the Jurisdiction of District Councils, and it is neither just nor expedient that the same Stock should be again assessed by the said District Councils: Be it enacted, That no District Council shall, during the Year One thousand eight hundred and forty-five, make any Assessment of or raise any Rate upon Cattle or Stock depastured on Crown Lands, and subject to Assessment under the Acts last recited of the Second and Fifth Years of the Reign of Her present Majesty, 2 Vict. No. 27. 5 Vict. No. 1. Cattle or Stock assessed under the 2 Vict. No. 27. not to be again assessed by District Councils;

IV. And be it enacted, That all Stock depastured on Crown Lands, under depasturing Licences shall continue as heretofore to be subject to the said Assessment under the Acts of the Second and Fifth Years of the Reign of Her present Majesty notwithstanding that the Lands on which such Stock is depastured may be included within the Limits of the Jurisdiction of any District Council. but such Cattle or Stock to be still assessed as heretofore.

In the Counties of Bourke, Grant, and Normanby Aid to be given out of the Assessment raised on Sheep and Cattle depastured on Crown Land.

V. And be it enacted, That out of the Sums raised by Assessment under the said Acts of the Second and Fifth Years of the Reign of Her present Majesty it shall and may be lawful for the Governor of New South Wales to appropriate such Monies as may be necessary to make good any Deficiency in the Sums which in the Schedule to this Act annexed stand respectively against the Districts of Bourke, Grant, and Normanby; provided that there shall have been first raised for Police Purposes under the Authority of the Councils of each of the said Districts Rates equal to not less than Three-pence in the Pound on the annual Value of all Real Property within each District, (exclusive of the Property of the Crown,) and in addition thereto a Rate of not less than One Halfpenny per Annum on each Sheep, One Penny Halfpenny per Annum on each Head of Cattle, and Three-pence per Annum on each Horse, Mare, or Gelding, not assessed under the said Acts of the Second and Fifth Years of the Reign of Her present Majesty.

SCHEDULE.

City of Sydney.
Town of Melbourne.
District of Bathurst.
" Berrima.
" Braidwood.
" Brisbane Water.
" Camden, Narrelan, &c.
" Campbelltown.
" Cassillis.
" Goulburn.
" Hartley.
" Illawarra.
" Liverpool.
" Macquarie.
" Maitland.
" Merton and Muswellbrook.
District of Mudgee and Wellington.
" Newcastle.
" Patrick's Plains.
" Parramatta.
" Paterson.
" Penrith.
" Queenbeyan.
" Raymond Terrace.
" Scone.
" Sydney.
" Wollombi and Macdonald.
" Yass.
" Bourke.
" Grant.
" Normanby.

(F.)

EXTRACT from the VOTES and PROCEEDINGS of the LEGISLATIVE COUNCIL, Friday, 9th August 1844.

3. District Councils Bill:—Mr. Cowper, pursuant to Notice, moved the Adoption of the following Address to His Excellency the Governor:

May it please Your Excellency,

WE, Her Majesty's most loyal and dutiful Subjects, the Members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to transmit to your Excellency the following Resolution, which was passed by this House on the 25th ultimo, upon the Introduction of "A Bill to make further Provision respecting the Constitution, "and to define and extend the Powers of District Councils, in the Colony of New South "Wales."

Upon the Motion of the Colonial Secretary, that the Bill be printed and read a Second Time on Thursday, August the 1st, an Amendment was moved, that the Bill be read a Second Time this Day Six Months. Upon which another Amendment was moved and carried: "That in the Opinion of this Council the District Councils are totally unsuited "to the Circumstances of the Colony, the Country Districts being unable to meet the "additional Taxation which would necessarily be required in carrying out the various "Objects contemplated by their Institution, and the Cost of the Machinery requisite for "bringing them into operation, being of itself an Obstacle fatal to their Success, and that "therefore the Second Reading of this Bill be postponed to this Day Six Months."

We beg to acquaint your Excellency, that the above Resolution was passed after a full Consideration of the numerous Petitions which have been presented to this House during the past and present Sessions, and under a full Persuasion that the District Councils, as at present constituted, cannot be carried out, without much Hardship and Oppression. We beg also to remind your Excellency, that this Council is prevented by the Act of the Imperial Parliament, 5 & 6 Vict. Reg., Cap. 76., from amending the Constitution of the District Councils in the most important Points prayed for, more especially in regard to the Police Clauses, which this Council and the Colonists generally consider the most obnoxious.

Under all the Circumstances, we beg to request that your Excellency will be pleased to make such a Representation to Her Majesty's Government as will procure a Repeal of those Clauses of the Act of Parliament which have reference to the Erection of District Councils, and that the Incorporation of Towns or Districts may be left to the Governor and Legislative Council of this Colony.

We beg leave further to request, that until your Excellency is favoured with Instructions from Her Majesty's Government, that your Excellency will be pleased to place upon the Estimates of Expenditure for the Year 1845, such Sums as may, in your Excellency's Opinion,

Opinion, be necessary to make Provision, from the general Revenue, for such Objects as it was intended should be provided for by the District Councils, had they been carried into operation. Encl. 2. in No. 2

Debate ensued; Question put; Council divided.

Ayes, 20.	Noes, 8.
Mr. Murray.	Mr. Therry.
Mr. Walker.	Mr. Icely.
Mr. Lowe.	Mr. Hamilton.
Mr. W. C. Wentworth.	The Colonial Secretary.
Mr. Berry.	The Collector of Customs.
Mr. Cowper.	The Attorney General.
Mr. Windeyer.	The Auditor General.
Captain Dumaresq.	The Colonial Treasurer (Teller).
Mr. Panton.	
Mr. Bowman.	
Mr. Lawson.	
Mr. Suttor.	
Mr. Bradley.	
Mr. Coghill.	
Mr. Foster.	
Mr. Young.	
Mr. Macarthur.	
Mr. Robinson.	
Dr. Bland.	
Dr. Nicholson (Teller).	

Address to be presented to his Excellency the Governor by a Deputation to consist of the Speaker, Mr. Foster, and Mr. Murray.

(G.)

Extract from the Votes and Proceedings of the Legislative Council, Tuesday, 20th August 1844.

1. District Councils Expenditure:—The following Message from his Excellency the Governor, received and read:—

Message from his Excellency the Governor to the Legislative Council, replying to an Address of the Council, dated the 9th August 1844, wherein his Excellency was requested to place upon the Estimates of Expenditure for the Year 1845, "such Sums "as may be necessary to make Provision, from the general Revenue, for such Objects "as it was intended should be provided for by the District Councils, had they been "carried into operation."

Gentlemen,

The Council having rejected the Bills which I caused to be presented to them for the Purpose of carrying into effect the Enactments of Parliament in regard to the Police of the Colony, I shall accept such Sums as the Council may place at my Disposal for the Maintenance of a Police Force during the Year 1845, though I must disclaim any Share in the Responsibility which this Infraction of the Constitution may involve.

I must also reserve to myself the Right to make such Alterations in the Estimates recently submitted to the Council for the Service of the Year 1845 as the altered Circumstances in which the Government is now placed may require. A Minute, showing these Alterations, accompanies the present Message.

I shall, of course, communicate the Address of the Council to Her Majesty's Government.

Government House, Sydney, 20th August 1844. George Gipps, Governor.

Message and Minute therein referred to to be printed, and taken into consideration To-morrow.

(H.)

Extract from the Votes and Proceedings of the Legislative Council, Wednesday, 24th September 1845.

The Chairman brought up the following Resolution, and obtained Leave to sit again To-morrow:—

"That, as no Answer has been received by this Council to the Address which was voted "on the 9th August 1844, in reference to the District Councils, his Excellency the "Governor be requested to recommend to this Council that the Expense of the Police "and Schools of the Colony during the Year 1846 be defrayed on the same Principle as "was adopted for the current Year."

Encl. 2. in No. 2.

Moved by Mr. Wentworth, That the House do adopt this Resolution.
Question put, and passed.
Moved by Mr. Wentworth, That an Address embodying this Resolution be presented to his Excellency the Governor by the Speaker and the Colonial Secretary.
Question put, and passed.
Council adjourned, at Ten Minutes after Eight o'Clock, until To-morrow at Three o'Clock.

(I.)

3. Police and School Expenditure, 1846.

Message from his Excellency the Governor to the Legislative Council, replying to an Address from the Council, dated the 24th September 1845, wherein a Request was preferred to his Excellency, that the Expense of maintaining the Police and public Schools of the Colony may be defrayed, during the Year 1846, in the same Manner as the Expenses are at present defrayed.

Gentlemen,

I shall not object to make Provision for the Police and public Schools of the Colony during the Year 1846 on the Principle on which the Expenses of these Establishments are now defrayed, if I be not, before the Close of the present Session, prevented from giving my Assent to such a Measure, by the Arrival of Instructions from Her Majesty.

I have therefore to recommend that Sums for the Maintenance of the Police, not exceeding those which stand on the Estimates now before you, may be voted without requiring any Contributions from the District Councils, also that Sums may be appropriated towards the Support of Schools equal in Amount to those voted for the Service of the current Year. Under existing Circumstances I regret I cannot recommend that the Provision for Schools should be increased.

George Gipps.

Government House, Sydney, 30th September 1845.

Message ordered to be printed, and taken into consideration on Thursday, 2d October.

(K.)

Return of the Number of Acres contained in each District for which a District Council is provided, and the Extent of the Land alienated by the Crown, in each respectively.

No.	District.	Acres alienated.	Acres unalienated.	Total of Acres.
1	Macquarie	116,672	2,395,321	2,512,000
2	Raymond Terrace and Dungog	331,159	1,620,728	1,951,887
3	Paterson	168,283	104,960	273,243
4	Maitland	145,318	108,682	254,000
5	Patrick's Plans	251,784	151,500	403,284
6	Merton and Muswellbrook	149,818	542,080	691,898
7	Scone and Murrurundi	237,885	841,600	1,079,485
8	Cassilis	283,051	1,198,000	1,481,051
9	Mudgee and Wellington	244,787	2,035,135	2,279,922
10	Wolombi and M'Donald	97,173	958,827	1,056,000
11	Newcastle	35,868	76,160	112,028
12	Brisbane Water	57,054	300,800	357,854
13	Sydney	58,102	82,631	140,733
14	Parramatta	87,169	63,936	151,105
15	Windsor	92,059	429,630	521,689
16	Penrith	129,191	247,898	377,089
17	Liverpool	64,008	39,900	103,908
18	Appin and Campbelltown	51,361	82,603	133,964
19	Camden, Narellan, and Picton	129,386	340,000	469,386
20	Hartley	80,647	1,279,882	1,360,529
21	Bathurst and Carcor	715,236	2,719,858	3,435,094
22	Yass	146,387	965,099	1,111,486
23	Goulburn	590,714	955,920	1,546,634
24	Berrima	90,169	360,676	450,845
25	Illawarra	137,917	432,640	570,557
26	Braidwood and Broulee	262,060	1,399,133	1,661,193
27	Queanbeyan	403,201	806,402	1,209,603
	PORT PHILLIP.			
28	Bourke	156,640	5,027,360	5,184,000
29	Grant	59,854	5,412,146	5,472,000

Surveyor General's Office,
31st July 1844.

Enclosure

Enclosure 3. in No. 2. Encl. 3. in No. 2.

To his Excellency Sir Charles Augustus FitzRoy, K. C. H., Captain General and Governor-in-Chief.

Sir, Sydney, 6th January 1848.

The Publication of the Despatch announcing the Intention of Lord Grey to introduce a Bill for the Purpose of giving a Constitution to this Colony of an entirely novel Character has excited Feelings of the deepest Alarm among the Colonists of all Classes, more particularly as it would appear to be his Lordship's Intention to proceed with the Measure without awaiting for further Information from the Colony.

A Meeting of highly respectable Colonists was held Yesterday, at which I had the Honour to preside, and at which a Committee was formed to prepare Resolutions and make other Arrangements for holding a general Meeting of Colonists, to petition and remonstrate against the proposed Measure; and as on a Measure of such Importance it is necessary that great Care should be used some Weeks will probably elapse before the Documents will be ready for Transmission to Her Majesty's Government. I am desired by the Committee to bring these Circumstances under your Excellency's Notice, with the Hope that you may use your Influence with the Right Honourable the Secretary of State to prevent the Introduction of the proposed Measure until the Colonists shall have had an Opportunity of appealing to Her Majesty and both Houses of Parliament.

As I believe the Mail for London will close this Evening or To-morrow, I have been requested by the Committee to transmit this Letter to your Excellency personally instead of through the Colonial Secretary.

I have, &c.,
(Signed) J. Josephson, Mayor,
Chairman of the Committee.

No. 3.

(No. 31.)

No. 3. Sir C. FitzRoy to Earl Grey, 2d February 1848.

Copy of a Despatch from Sir C. A. FitzRoy to the Right Honourable Earl Grey.

Government House, Sydney, 2d February 1848.
(Received 1st June 1848.)

My Lord,

I have the Honour to transmit a Petition addressed to the Queen, and signed by upwards of 3,100 Persons of Respectability residing in Sydney or its immediate Neighbourhood, praying that Her Majesty will be graciously pleased not to assent to any Change in the Constitution of this Colony which shall not have received the previous Sanction of the Colonists at large.

This Petition was framed in pursuance of Resolutions passed unanimously at a public Meeting held in Sydney on the 19th ultimo, which was very numerously attended by Persons of every Shade of Opinion on other colonial Topics, and of great Respectability and Influence.

It is right that I should add that public Meetings for a similar Purpose have been called very generally throughout the Colony, and that Petitions to the same Effect as the one now forwarded are in progress of Signature.

I have the Honour to enclose a Copy of the "Sydney Morning Herald" of the 21st ultimo, containing a full Report of the Proceedings of the Meeting held on the 19th ultimo.

I have, &c.,
(Signed) Charles A. FitzRoy.

Enclosure 1. in No. 3. Encl. 1. in No. 3.

To the Queen's most Excellent Majesty.

The humble Petition of the undersigned Colonists of New South Wales,

Respectfully showeth,

That the Publication of a Despatch, dated the 31st July 1847, from Your Majesty's Principal Secretary of State for the Colonies, indicating a Change in the Constitution of this Colony, by which (among other things) the System of District Councils is to be perpetuated, and the Legislative Assembly is to be placed, with respect to those District Councils, in the Relation of Representative and Constituent, has filled us with the utmost Apprehension and Dismay.

That

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That in consequence of the Dispersion of a large Portion of the Inhabitants of this Colony any Measure establishing Municipalities similar in Principle to the District Councils attempted to be created by the Act of Parliament 5 & 6 Vict. c. 76. would be so repugnant to the Wishes and so adverse to the Interests of this Community, that it is utterly impossible that it could ever be brought into effective Operation.

That the Change in the Constitution of this Colony proposed in the before-mentioned Despatch would have the Effect of depriving us of the Elective Franchise, which we maintain to be our inalienable Right as British Subjects.

That we cannot but be persuaded that by delegating our Right to elect our Representatives we are deprived not only of that Choice to which we are entitled, but also of that constitutional Control over our Legislature without which no People can be considered free.

That we are anxious to enjoy a Form of Government founded as nearly as Circumstances will admit upon the Principles of the British Constitution, and that the making this Colony the Subject of a theoretical Experiment in Legislation is a Measure the Justice or Policy of which we can never admit.

That we see nothing in the Erection of Port Phillip into a separate Colony to justify the extraordinary Change which is by the before-mentioned Despatch proposed to be made in the Constitution of the Colony.

That we feel ourselves entitled to expect that no important Alteration in that Constitution shall be made without the previous Consent of those whose Persons and Property it may be intended to affect.

Your Petitioners therefore humbly pray that Your most Gracious Majesty will not assent to any Change in the Constitution of this Colony which shall not have received the previous Sanction of the Colonists at large; and your Petitioners will ever pray, &c.

Encl. 2. in No. 3.

Enclosure 2. in No. 3.

Extract from the "Sydney Morning Herald" of the 21st January 1848.

Great Public Meeting to oppose Lord Grey's intended Alteration in the Constitution of the Colony.

In pursuance with the Arrangements made by the Committee appointed to draw up Resolutions and Petitions to Her Majesty and both Houses of Parliament, with respect to the Despatch of Earl Grey, and the Changes in the Constitution of the Colony proposed therein, a public Meeting was held at the Victoria Theatre on Wednesday Afternoon, to adopt such Resolutions. The Pit and Boxes were densely thronged, whilst the Stage, on which the more active Movers in the Matter were assembled, was crowded with the most influential Gentlemen of the Colony of every Shade of political Opinion. At about Half-past Two Dr. Dobie moved that

The Right Worshipful the Mayor do take the Chair.

Mr. Francis Macarthur seconded the Motion. Carried.

His Worship having taken the Chair opened the Business of the Meeting. The Subject on which they had been called together was the Despatch of Earl Grey relative to certain proposed Changes in the Constitution of the Colony. That Despatch it would presently be his Duty to read to them, in order that they might fully understand the Objects and appreciate the Importance of the present Meeting. He should detain them with very few Remarks, for the various Resolutions which formed the Basis of the Petition would be moved and discussed by Gentlemen of far greater Ability than himself. But he could not but express his own Opinion that the Changes proposed in the Despatch were such that no Good could be expected from them, whilst to carry them out must cause those Disturbances and Confusions so dangerous to the political Welfare of a State. Had the Plans of Earl Grey with regard to this Colony been fully developed there might have been no Occasion for the present Meeting, but the Document was so vague that they were left unacquainted with the actual Form of their new Constitution. It seemed, however, that it was intended to introduce a Form of Government similar if not identical with the Constitution lately given to New Zealand. Such a Form would not only be most unjust to the Colonists but it could not work well. It would indeed be a Piece of Class Legislation disastrous in its Results. The Legislators of the Country were to be elected only by the elected for the District Councils, whilst the Right of Representation by the Members of their own Choice would be taken from the People altogether. Then they were to have Two Legislative Houses, so that neither could be independent. One of these was to be a Council of Nominees appointed by the Crown, and of course dependent only on the Government, and the other House subservient only to the District Councils, by whom its Members would be elected. The elective Franchise, therefore, which had been so recently conceded to them would be entirely destroyed, and that against the Assent of the People themselves. With these few Remarks he would beg to read the Despatch of Earl Grey.

The

The Despatch having been read, Encl. 2. in No. 3.

Mr. Norton rose to move the First Resolution. He was sorry that in moving this Resolution the Task had not fallen on some one who could not have felt more deeply its Truth and Importance but who might with greater Ability have expressed more strongly than he could his Sense of the Evils about to be inflicted on the Colony by Her Majesty's Ministers. The Resolution he had to move was as follows:

"That this Meeting views the proposed Change in the Constitution of the Colony, "indicated by the Despatch of the Right Honourable the Secretary of State for "the Colonies, now before the Public, with the utmost Apprehension and "Dismay."

The Sentiments contained in this Resolution must, he was sure, carry with them those of every sincere Well-wisher of the Colony. Step by Step had Concessions of political Rights been made to the Colony, and on this gradual Progress towards civil Liberty many People had been led to emigrate, in the full Belief that they were coming to New South Wales to enjoy those Privileges which are the Birthright of Englishmen, to a Land free from political Abasement, a Land worthy of the parent Country by which it was founded. (Cheers.) First, they had their old Council granted to them freeing the Colony from the absolute Control of the Executive. Then they gained the glorious Boon of Trial by Jury, and at last they gained their present Constitution, by which the Members of the Legislature were made personally responsible for their Acts to the People who elected them. And now this Right of Enfranchisement was to be taken from them, not because they asked for it, not because it had not worked well, for he contended the Council had done its Duty, and, in the Efforts it had made, loyally and honestly it had done its Duty to the Country. True it was, that all its Measures might not be wise, were not free from Errors, but it must be remembered how short their Season of political Education had as yet been. The public Mind required to be disciplined before it could be expected to enter with perfect Correctness into all the Details of experienced Legislation, but he did believe, and the Colony would re-echo his Belief, that in all their Measures the Representatives of the Colony had been actuated by a deep Sense of Duty to the Colony and to the parent Country. There was one convincing Proof that the present Council had worked well,—had done its Duty,—and it must be satisfactory to the Members of that Council to know, that although now the constitutional Rights which they had so energetically protected were about to be torn from them, that in the Exercise of their Functions nearly every Measure they had passed had received the Assent of the English Ministry. What Pretext then could exist for altering this Constitution, when nearly all the Measures it had given Birth to were approved of by the English Government, and those that were not so approved showed only how grossly a Ministry in Downing Street, 16,000 Miles away, could err in forming any Opinion of the Good or Evil of any Measures for this Colony. There was the Lien on Wool Bill, a Measure which perhaps as much as any Measure ever passed had benefited the Colony,—had in fact saved it from Destruction,—had twice been disallowed by the Home Government. It did occur to him, when Her Majesty's Advisers first refused to assent to this Measure that they might have fancied that the Colonists were the best Judges of the Circumstances in which they were placed, and of the Remedies to be applied to them. But no, the Minister found out that the Bill, so beneficial in its Provisions, must be disallowed, in some Crotchet of its not being consistent with English Law, although he had never yet been able to make out on what Points it was inconsistent with any English Law whatever. But when it was disapproved of again, it did occur to him most forcibly that neither the Wishes nor the Interests, nor even the Distresses, of the Colonists were Matters of much Concern or Moment to Her Majesty's Ministers. And now that the Constitution they possessed, and had been tried and found to work well, when they were looking forward to still further Concessions than those which had been already made to them, they were threatened with the Measure which would place them in a worse Position than that in which they stood Twenty Years ago. The Minister must know that even if District Councils could be carried into effect here, that although the Parties elected might be very upright, honourable, and honest Men, they would be Men whom it would be entirely unfit to trust with the sole Control of the Elective Franchise. There was, however, one Argument of more Importance than all the rest to be urged against the Measure, and one which was of itself sufficient to induce the Colonists to resist in any possible Way, and that was, that the Constitution it was proposed to give them was perfectly different to that of the parent Empire. It was a perfect Novelty in Legislation, and offered no Precedent by which to test its Good or Evil. Whether it were a good Measure or a bad one, it had this dangerous Defect attaching to it, which ought to induce all most carefully to shun it, namely, that there was nothing in past Experience to guide them in the working of it,—a Defect which would counterbalance any Advantages it might possess. In such a Measure they had placed the Light, if Light there were, at too remote a Distance to allow the Mind to be illumined by it. But if this Innovation were not suited to England, how much stronger the Objection to trying it here, when the Minister at home was perfectly ignorant of the Circumstances of the Colony? Where it was urged by one Minister that the Fire should not be allowed to do its Work of Devastation on the Grasses of the Country, whilst the island of Cockatoo was appointed the place to which all the Mass of Prisoners should be sent. These were the Lights by which they were guided in their profound Legislation

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for this Colony. Who could contemplate the vast Wastes of the Colony not yet redeemed from the Wilderness? Who could contemplate the recent Discoveries of Mineral Treasures, probably richer than any in the World? Who could contemplate the Droughts which devastate the Colony,—Thousands and Thousands of Animals, the very Wealth of the Colony, perishing from their Effects,—without feeling the deep Conviction that in this Country, of all others, Legislation to be effective must be present and immediate—(Cheers)—that the Legislature should be made by those who had a deep Interest in all the Concerns of the Empire? He felt that it was so important to the Interests of the Colony and of England that the fullest Inquiry should be made into the Circumstances which ought to guide Legislation, that the Colony ought to have its own Representative in Parliament. Then they would not have the freest Government in the World making Laws, that he would not say would be disapproved, but that would actually astound all England if applied to the barrenest Waste, the most confined Country of the Empire. (Cheers.) And why were the Rights of Englishmen withheld from them more here than elsewhere? If such an Innovation had once been commenced in England, the whole Country would have been aroused to denounce, and even the very slightest Innovation on these Rights so dear to Englishmen would probably in its Results have threatened to upset the whole Constitution. But even if this new Scheme could be carried into present Effect, how long was it to last? Was it fancied that it could last through the Ages which would give to Australia a Name and Place among the Nations of the Earth? Till all its wide Wastes were redeemed from the Desert, till all its vast Mineral Treasures, which, if stamped with a Diadem, were still applicable to all the Purposes of civilized Life, were developed? It was hardly possible to contemplate such an Intention; but if it were so, then it seemed to involve a very serious Reflection on Her Majesty's Ministers, who must proclaim by it that the English Constitution was not fit for her Colonies. If it were not so, if it were intended at some future Day to give all the noble Institutions of their Fatherland to the Colony, what a miserably strange Perversion of the Scriptural Command, "Train up a Child in the Way he should "go, and when he is old he will not depart from it." How were they to learn the true working, how were they to learn to cherish and respect the venerated Constitution of their Country, if their Days of Pupillage in Legislation were to be passed in the angry Discussions, the constant Abuse which this Infringement on their Rights would give rise to? Except by such gross Impolicy and Injustice he could alone attribute this proposed Change, unless he could venture to attribute it to a miserable Jealousy of this Colony and its rising Greatness; and if so, he knew but One Parallel to it in History, and that was of an American Law which made it highly penal to teach the unfortunate African to read; thus debasing the poor Creature to the Condition of a Brute, to prevent him aspiring to be any thing beyond a Slave. But how miserable, how short-sighted, such a selfish Policy. (Cheers.) How much wiser and nobler to endeavour to extend her Dominion to every Portion of the Globe, and look on her Colonies as additional Countries added to the Empire, to carry into the remote Ends of the Earth the Language, the Arts, the Sciences, which had grown up under her own glorious Constitution, and to plant that Constitution, and the Rights and Privileges it gave, wherever British Colonization flourished. A different Policy than had been adopted to America would have made these great Colonies her fervent Ally in Peace or War, would have secured the Connexion between them in Amity for ever. And what Advantages would not America have derived from the Continuance of such a Connexion. In the Engagement of the Science, and Art, and Literature of England, the Language of the Americans, now so corrupted and alloyed, would have retained its Purity. Her Nobles and her Senators would have been educated at British Colleges, and the great Institutions of the parent Country would have flourished again in the generous Emulation which would have been excited in the Offspring. But such had not been the Case. But England should recollect, in the contracted and unjust Colonial Policy she was now pursuing, that the Fate of Nations was never beyond an overwhelming Destiny. That though through her energetic Intellect Science had led her to the most important Place amongst Nations, yet notwithstanding her Resources she might be bowed and broken before some unexpected Tempest. The miserable Failures of the Crops which lately caused Suffering so intense throughout the Empire ought to be a Warning to her, for should that Failure have extended throughout Europe, and it had done so Twenty Times in the Annals of History, how advantageous, when those Supplies failed which neighbouring Countries were accustomed to give her, to be enabled to turn for Aid and Assistance to her far-off Colonies, which, under a System of Policy which would plant the Institutions of the parent Country amongst those which would have nothing but the Distance of Space between the Rights exercised by Englishmen at home and Englishmen here, would hold out every Inducement to Immigration until their mighty Resources were fully developed. (Cheers.) Most Nations had gone down in the World, and England might yet be doomed to share their Fate. He did not say that any had been her Equal in Resources and Greatness, but that they stood in their Day much in the Position she at present occupied in relation to the rest of the World. Let the Colonists then show to the People of England that they were fit to enjoy those Privileges which the Constitution of England made their inalienable Right. That they knew how to choose between Slavery and Freedom, and would not tamely submit to have their Liberties taken from them or endure in Silence the Scourge of the Oppressor. (Cheers.)

Mr. James

Mr. James Martin could assure them that it was a most high Gratification to him on looking round at that Meeting to see Men of so many different Opinions, whose political Views were in general so hostile to each other, assembled to make common Cause in resisting the Measure sought to be inflicted on them by Earl Grey. He was sure that on no previous Occasion, however urgent, had many of the Gentlemen around him ever acted in concert. But he was not surprised to see them now, for they were called on to act as Englishmen in resisting an Oppression that would put an end to everything worthy the Name of Liberty. On such an Occasion as the present it was difficult to preserve that Moderation in Language in which all such great and momentous Questions should be discussed. If the Measure had been proposed to them for their Consideration and Acceptance it would be enough to excite their just Indignation to imagine them base enough not to scorn it; but how much worse was their Position, when they yet scarcely knew that Earl Grey had not already carried his Views into effect without even the Appearance of asking for the Assent of the Colonies. There was an Ambiguity in the Despatch of the Secretary of State which left it extremely difficult to determine what Course he intended to pursue. At the Close of the Despatch he found the following Paragraph:— Encl. 2. in No. 3.

"What I have written will, however, I trust, be sufficient to relieve the Anxiety of the "public Mind in New South Wales respecting Arrangements pregnant with Results so "momentous to that Part of Her Majesty's Dominions, and therefore so deeply interesting "to every other Member of the widely extended Empire over which Her Majesty reigns. "It will be no slight Relief to the Responsibility of proposing such a Change to find "myself in possession of the most complete local Intelligence, and supported by the "Opinion of the most eminent local Authorities."

From the first Part of this Extract it would seem doubtful whether Earl Grey wished the Colonists to give any Opinion on the Matter at all. If he did so, why did not he candidly and openly send the Despatch to the Governor to be at once published, and thus elicit public Opinion upon it? In the latter Part however he states that he wishes his Opinions to be confirmed by eminent local Authorities; and what Authorities would he have if he reject that of the chosen Representatives, who have utterly repudiated the System of District Councils, on which the notable Scheme rests? Reading the Despatch, and looking at its Tone and Tenor, there could be no Doubt that the proposed Innovation in the Constitution was a Blow levelled at the Legislative Council, and that it was not proposed from any abstract Good in it. It arose not from the spontaneous Belief in the Minister's Mind that it would be an Improvement, but was traceable, he had no Doubt, to the Suggestions of Sir George Gipps, who, finding, that even backed by the Twelve Nominees in the present Council, he had been unable to carry his Measures against the Representatives of the People, suggested this insidious Scheme to take from these Representatives what little Power they ever possessed. The Gentleman who had preceded him had paid a well-merited Tribute to the existing Council. The different Measures which had been passed by that Body might be viewed in different Light by Persons of different Opinions; but they were the Result of an honest Sense of Duty, and in many Instances had greatly benefited the Colony. But whatever their Acts, the Council had done great Good by showing the Colony for the first Time how public Business was carried on. It had infused into the Community a Spirit which had never before existed, and which, gradually growing up, would fit them for due and proper Exercise of all their constitutional Rights; and this of itself was enough to entitle them to respect. That this was the Object of the new Measure was evident; for it was repeated over and over again in the Despatch that the Council had got all the Power, and therefore it was proposed to erect Two Houses of Legislature, one of which should be composed of Nominees of the Crown only, which should stand between the Representatives and the Government. The Question of whether Two Houses were better than One, might be disputed. In an independent Country perhaps it was so. But here they had no Materials for the Constitution of a Second House. They were dependent for its Constituents solely on the Will of the Government, which would give it a very different Position to that occupied by the House of Lords at home. Far better for them to keep the Constitution they had at present, which had as yet worked well, and had not been found fault with by the Colonists. There were Two prominent Points of Objection to the proposed Change to which he would briefly advert; first, the Continuation of District Councils; and second, giving those Bodies Power to elect the Legislature. Now the Expression of the Opinion of the Legislative Council, in regard to the first of these Points, ought to have convinced Lord Grey, if he were sincere in his Expression of a Wish to be supported by the Opinion of local Authorities, that such a Measure must be most distasteful to the Colonists. In spite of all the Exertions of the Legislature, the earnest Desire evinced to bring these Bodies into existence, not One of them had as yet performed any one of the Duties that were designed for them in the Constitutional Act. The Legislative Council had from the first resolutely set their Faces against investing them with Power to exercise those Functions which they were intended to exercise. They would have nothing to do with District Councils, and had told the Secretary of State so, distinctly and emphatically; and after having been called into being Five Years, not one had exercised any of its Functions. One indeed of these Institutions, which had obtained for itself a most unenviable Notoriety, had appeared to sustain an Existence,—the Parramatta,—but he denied that even this one had exercised any of its legitimate Functions. It was intended that District Councils should have Powers to assess Property, and make Rates and Taxes for divers Purposes,—

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not one of which it had performed, and therefore was virtually defunct. But with the full Knowledge of all this, the British Government persevered in the Endeavour to force this Measure down the Throats of the Colonists. But the more important View in which this Measure was to be looked at was, the Establishment of the Position of Constituents and Representatives between these Bodies and the Legislature; or what was, in other Words, virtually taking from the Colonists the Privilege of the Elective Franchise. There was no Precedent whatever under the British Constitution for a Measure like this. True it was that before the passing of the Reform Bill certain limited Bodies and Corporations did send Members to Parliament; but it was a Right they did not possess under the Constitution, but which they had usurped in the gathered Corruptness of Ages. But even if it existed before the passing of the Reform Bill, any such Right had been repealed; and under the Constitution as it now stood no Member of the Legislature could be elected by mere local Bodies, but must be elected by the great Body of Electors. It was urged indeed, by Earl Grey, in his Despatch, that it was proposed by this Measure to assimilate the Constitution of these Colonies to that of the old American Colonies. There was a specious Policy in this, as it was generally imagined that the Constitutions of the American Colonies were free and based on that of Great Britain. When he first read the Statement of Earl Grey, he must acknowledge that it did startle him a little. He thought he knew something, had read something, of the History and Constitution of the old American Colonies, but he certainly remembered nothing in it at all resembling that which it was proposed to inflict upon this Colony. But when he reflected the Weight which such an Assertion should have coming from a Person in the high and responsible Position held by his Lordship, a Position which could not be held without the Possession of at least much Talent and Information, he perused and referred to the Authorities on the Subject; and in the very highest that could be adduced, that of Judge Storey, he found the following Passage:—

"The American People had long been in the Enjoyment of the Privilege of electing, at "least, One Branch of the Legislature, and in some of the Colonies, of electing all the "Branches composing the Legislature. A House of Representatives, under various "Denominations, such as a House of Delegates, a House of Commons, or, simply a "House of Representatives, emanating directly from and responsible to the People, and "possessing a distinct and independent Legislative Authority, was familiar to all the "Colonies, and was held by them in the highest Reverence and Respect. They justly "thought, that as the Government in general should always have a common Interest "with the People, and be administered for their good, so it was essential to their "Rights and Liberties that the most numerous Branch should have an immediate "Dependence upon and Sympathy with the People. There was no Novelty in this "View. It was not the mere Result of a State of colonial Dependence, in which "their Jealousy was awake to all the natural Encroachments of Power in a Foreign "Realm. They had drawn their Opinions and Principles from the Practice of the "parent Country. They knew the inestimable Value of the House of Commons "as a compound Branch of the British Parliament; and they believed that it had at "all Times furnished the best Security against the Oppressions of the Crown and the "Aristocracy. While the Power of Taxation, of Revenue, and of Supplies remained in "the Hands of a popular Branch it was difficult for Usurpation to exist for any Length of "Time without Check, and Prerogative must yield to that Necessity which controlled at "once the Sword and the Purse. No reasoning therefore was necessary to satisfy the "American People of the Advantages of a House of Representatives, which should emanate "directly from themselves, which should guard their Interests, support their Rights, express "their Opinions, make known their Wants, redress their Grievances, and introduce a "pervading popular Influence throughout all the Operations of the Government. Expe-"rience as well as Theory had settled it in their Minds as a fundamental Principle of a "free Government, and especially of a Republican Government, that no Laws ought to be "passed without the Co-operation and Consent of the Representatives of the People, and "that these Representatives should be chosen by themselves without the Intervention of "any other Functionaries to intercept or vary their Responsibility."

This was the Account given by the great American Jurist of the Constitution of his Country previous to the Revolution, and it was a direct and authoritative Contradiction of the Assertion made by the Earl Grey that his Scheme of double Election was at all similar to that which existed in the British Colonies in America. Speaking of the Advantages of this System of direct Representation as applied to the Election of the Members of the lower House of Congress, Mr. Justice Storey has the following most conclusive Arguments:—

"The Choice too is to be made immediately by them, so that the Power is direct, the "Influence direct, and the Responsibility direct. If any intermediate Agency had been "adopted, such as a Choice through an electoral College, or by official Personages, or by "select and specially qualified Functionaries *pro hâc vice*, it is obvious that the Dependence "of the Representative upon the People, and the Responsibility to them, would have been "far less felt and far more obstructed. Influence would have naturally grown up with "Patronage; and here, as in many other Cases, the legal Maxim would have applied, *Causa "proxima, non remota, spectatur.* The select Body would have been at once the Patrons "and the Guides of the Representative, and the People themselves have become the Instru-"ments of subverting their own Rights and Power. The indirect Advantages from this "immediate Agency of the People in the Choice of their Representatives are of incalculable

Benefit,

" Benefit, and deserve a brief Mention in this Place, because they furnish us with Matter " for most serious Reflection in regard to the actual Operation and Influences of Repub- " lican Governments. In the first place, the Right confers an additional Sense of Personal " Dignity and Duty upon the Mass of the People. It gives a strong Direction to the " Education, Studies, and Pursuits of the whole Community. It enlarges the Sphere of " Action, and contributes, in a high Degree, to the Formation of the public Manners and " national Character. It procures to the common People Courtesy and Sympathy from " their Superiors, and diffuses a common Confidence as well as a common Interest through " all the Ranks of Society. It awakens a Desire to examine and sift and debate all public " Proceedings, and thus nourishes a lively Curiosity to acquire Knowledge, and at the " same Time furnishes the Means of gratifying it. The Proceedings and Debates of the " Legislature, the Conduct of public Officers, from the highest to the lowest, the Character " and Conduct of the Executive and his Ministers, the Struggles, Intrigues, and Conduct " of different Parties, and the Discussion of the great public Measures and Questions which " agitate and divide the Community, are not only freely canvassed, and thus improve and " elevate Conversation, but they gradually furnish the Mind with safe and solid Materials " for Judgment upon all public Affairs, and check that Impetuosity and Rashness to which " sudden Impulses might otherwise lead the People when they are artfully misguided by " selfish Demagogues and plausible Schemes of Change."

No Person could read that Reasoning without being convinced of its Propriety, but what did Earl Grey's Constitution propose to do? To take away the elective Franchise, to give them no Control over the Legislature, except by electing District Councillors, to make the Representatives not responsible to the People or to the Councils, for such would be the Effect. He would refer to another Authority on this Point, and one which would always guide them aright in constitutional Matters,—the Authority of Edmund Burke: —

" With you there is little or rather no Connexion between the last Representative and " the first Constituent. The Member who goes to the National Assembly is not chosen by " the People, nor accountable to them. There are Three Elections before he is chosen; " Two Sets of Magistracy intervene between him and the primary Assembly, so as to " render him, as I have said, an Ambassador of a State, and not the Representative of the " People within a State. By this the whole Spirit of the Election is changed; nor can " any Corrective which your Constitution-mongers have devised render him anything else " than what he is. The very Attempt to do it would inevitably introduce a Confusion if " possible more horrid than the present. There is no Way to make a Connexion between " the original Constituent and the Representative, but by the circuitous Means which may " lead the Candidate to apply in the first instance to the primary Electors, in order that, " by their authoritative Instructions, (and something more perhaps,) these primary Electors " may force the Two succeeding Bodies of Electors to make a Choice agreeable to their " Wishes. But this would plainly subvert the whole Scheme. It would be to plunge " them back into that Tumult and Confusion of popular Election which by their interposed " Gradation of Elections they mean to avoid, and at length to risk the whole Fortune of " the State with those who have the least Knowledge of it and the least Interest in it. " This is a perpetual Dilemma into which they are thrown by the vicious, weak, and con- " tradictory Principles they have chosen. Unless the People break up and level this " Gradation it is plain that they do not at all substantially elect to the Assembly; indeed " they elect as little in Appearance as Reality. What is it we all seek for in an Election? " To answer its real Purposes you must first possess the Means of knowing the Fitness of " your Man; and then you must retain some Hold upon him by personal Obligation or " Dependence. For what End are these primary Electors complimented or rather mocked " with a Choice? They can never know anything of the Qualities of him that is to serve " them, nor has he any Obligation whatsoever to them. Of all the Powers unfit to be " delegated by those who have any real Means of judging that most peculiarly unfit is " what relates to a personal Choice. In Case of abuse that Body of primary Electors " never can call the Representative to an Account for his Conduct. He is too far removed " from them in the Chain of Representation."

And a little further on the same great Statesman adds thus: —

" As in the End all the Members of this elective Constitution are equally fugitive, and " exist only for the Election, they may be no longer the same Persons who had chosen him " to whom he is to be responsible when he solicits for a Renewal of his Trust. To call all " the secondary Electors of the Commune to account is ridiculous, impracticable, and " unjust; they may themselves have been deceived in their Choice as the Third Set of " Electors, those of the Department, may be in theirs. In your Elections Responsibility " cannot exist."

There was One other Fact to which he wished to allude, and it was the remarkable Fact, that this Measure, worse than the Rotten Borough System at its Height, was proposed by the Son of a Statesman who for more than Half a Century battled, and battled successfully at last, to abolish these rotten Corporations. With these Remarks, he begged to second the Resolution. (Cheers.)

Mr. Hipkiss, as one of the humbler Classes, would beg to say a few Words on the Resolution. He was not going to oppose it, for he objected to the Measure of Earl Grey,

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and agreed in most of what had fallen from the Gentlemen who preceded him; but as his Objections took rather a different Shape, he wished to express them. (Cheers.) He objected to it because it would do Evil to England, for it never could be carried out. To attempt the Constitution of an Assembly to legislate for a Variety of Colonies, whose Interests were totally distinct, would give rise not only to endless Dissension and Jealousies, but must terminate fatally to the Colonial Empire of Great Britain. (Cheers.) The Measure was the Child of the French Revolution. The same System had revolutionized France, and he warned them that it must eventually lead to Revolution here. (Cheers.) It was little Matter to him whether the Measure was adopted or not; long before its Results could be seen he should be Dust and Ashes, but he warned them to resist this Measure to the utmost, if they would preserve their Constitutional Liberty, and avert the Horrors of Revolution. The Measure would be fatal to the Colonists, and God send it might not be carried out. (Cheers.)

The Resolution was then put, and passed unanimously.

Mr. S. A. Donaldson should approach the Duty which had been allotted to him with much Fear, did he not know how ably he should be backed by the Gentleman who had been appointed to second it, their tried Representative, Mr. C. Wentworth. (Cheers.) Feeling, however, perfect Confidence in the Manner he should be supported, and equally confident of the Voice of the Meeting going in favour of the Resolution, he advanced boldly to the Charge, in the true Spirit of British Soldiers, looking not on the Foe before him, so long as he could rely on the Rearguard. With regard to the few Observations he had to make, he regretted to detain the Meeting for a few Moments, but would promise to be as brief as possible, and to put his Remarks into plain Language. In order to make these Remarks intelligible, he would read the Resolution he had to move. It was as follows:—

> "That the proposed Measure will have the Effect of depriving the Colonists of the "Elective Franchise, which we maintain to be our inalienable Right as British "Subjects."

It would be seen that in the Consideration of this Resolution Two Points arose: first, the Effect of this Measure in depriving them of the Elective Franchise; and, secondly, that such Franchise was their inalienable Right. Before proceeding to consider these Points it would perhaps be well to see what was the Meaning of the Word Franchise; "to enfranchise" was to make free, and therefore the Word "Franchise" was the Synonym to Liberty. Every British Subject, high or low, rich or poor, was therefore born with a Right to this Franchise, which no one, not even Parliament itself, could take from him, and which was limited only by the Power which created it, and which had fixed on a certain recognized social Position as the only Qualification necessary to its Possession, and possessed of this Qualification every Man in Great Britain had a Right to enter upon the Enjoyment of it. Every individual Man who has attained that social Position is as capable of enjoying that Right equally with the highest and wealthiest of the Realm. It is as free to him as the Air he breathes, and such social Position may, by honest Industry, actuated by a noble Desire to obtain this Privilege, be attained by the most miserable. As he had before stated, the Right once enjoyed could not be taken from any British Subject, even by Parliament itself, without his own Consent; because, although it might be said, and he would concede it for the Sake of Argument, that Parliament might commit an Act unconstitutional in itself, they might rest assured they would be unable to carry any such Act into effect. The Pressure from without, the Feeling of awakened Resistance to any Infringement on constitutional Rights, would be too strong to admit of it for a Moment, and the Voice of the People whom that Parliament was sent to represent would put a Stop to it before any such Bill could be passed into Law. The Parliament of England who would consent to such a Measure would cease to exist before they could perpetuate it without the Consent of the Electors themselves. Now they had only to import this same Argument from Great Britain to Australia. Every British Subject resident in Australia, whether born in Great Britain or born of British Family here, was born with the same Right as any British Subject at home. This, he hoped, was not denied, for the Parliament of England had themselves recognized that Right, and had fixed the social Position at which the Colonist may exercise that Right, a Right which he has already enjoyed and exercised. (Cheers.) He would therefore assert, and assert it boldly, that having enjoyed this Right, of which Parliament, powerful, aye, nearly supreme as it is, could not, and dare not, attempt to deprive the meanest Engish Subject, could not take from them that Right, without an Appeal to themselves. (Cheers.) They must first obtain the Consent of the Colonists, either by a direct Appeal or through their Representatives. He repeated they could not do this lawfully; by the strong Hand they might deprive them of their Rights, might force this Measure upon them, as they might commit any other Act of Oppression; in the Way, in fact, in which almost every Act of Colonial Legislation had been managed at home. The Minister might go down to the House, and propose, and read, and pass any Bill into Law which the Parliament neither knew nor cared anything about, passing it, indeed, as in the Case of the Act under which the Legislative Council of the Colony was granted, in a House not numbering Forty Members. (Cheers.) He must again repeat it, the Measure, if passed, would be opposed to the Spirit of the Constitution, and would not be Law. If passed it would be to the Prejudice of Rights already granted, which they had an inalien-

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able and indefeasible Claim to. It would be an Invasion of their Privileges, of their Constitutional Liberties, to which they must be lost to all Pride, dead to all Feeling, sunk to the lowest Depths of political Wretchedness, if they could submit without a manful, straightforward, and British Protest and Remonstrance against a Measure so iniquitous. The very People from whom they sprung would reproach and condemn for base Subserviency if they were silent on such an Occasion as this. If this disgusting, this disgraceful Law, should pass, let it die; but let them not be any Parties to their own Degradation. The Electors Franchise, which it was now proposed to take from them, was, as stated in the Resolution he held in his Hand, their inalienable Right as British Subjects. It was their inalienable Right, and let no Man forget the proud Distinction which attaches to its Enjoyment,—the Connexion, which he prayed to God might never be disowned, between themselves and the mother Country. That Connexion, the Glory of their Origin, they would deserve to lose, if they did not speak up fearlessly for the Rights and Privileges which for ever belong to it. (Cheers.) One of the Gentlemen who had preceded him had alluded to the political Education of the Colony. Truly had he informed them that Step by Step had they attained their present Position; that the Concessions which had been made had been wrung from the Home Government only by constant Application. But where they had attained the Elective Franchise, where they had shown how justly they appreciated its Value, the Use they had made of it, they had a Right to expect that unlimited Control of public Praise would have been conceded to their Representatives, and that the next Step on the forward Path would have been the Abandonment of the Schedules. Far, far different, however, was the Case. Instead of abandoning the Schedules, the present Measure proposed to cut away from beneath the Fraction of political Liberty they had already obtained, to take back in 1848 that which was granted in 1842. It had been suggested that this Measure did not emanate from the Minister; that it had arisen from the Suggestions of one who, though since dead, whilst presiding over the Government of the Colony, had exhibited a constant Predilection for these impracticable Institutions of District Councils. He would fain walk tenderly over the Grave of the high-minded and the great,—would deal gently with departed Talent; but let them not forget that they too had their Martyr in the Strife which that Predilection caused. But a few short Weeks ago and they had laid in the Grave one who had been the unflinching Champion of their Rights,—who had never been absent from his Post, but had battled Inch by Inch for that Freedom which they had now gathered together to protect. (Cheers.) His Services in the Cause of Freedom would not be forgotten. He had passed away, but the Memory of his Exertions, his Labours, his fearless Zeal, would never be effaced from the Heart of his Country; and when in the successful Termination of the Struggle in which they were engaged,—when in the Atmosphere of constitutional Freedom the Colony should wax great and powerful, in her Hall of Archives, adorned by the Effigies of the illustrious Dead, a proud Niche would be found for the honoured Bust of Richard Windeyer. (A Burst of most enthusiastic Cheering followed the Mention of Mr. Windeyer's Name.) The Proposal of double Election would deprive them of the Right of the Elective Franchise. On this Part of the Question he was obliged to generalize very much; for the studied Reserve which characterized all official Communications had precluded the Right Honourable the Secretary of State from fully enlightening them as to the particular Infliction under which they were to suffer. But as the main Ingredient in the Change was directly pointed out, and as they knew from the published Particulars of the neighbouring Island of New Zealand that the Plan of Lord Grey was to work by the odious System of double Election, it would be sufficient for his Argument to show how this would involve the Withdrawal of the Franchise which they now enjoyed, and which he trusted he had succeeded in showing they enjoyed as a Right. Here he would appeal to those who worked; those whom he looked upon as the Thews and Sinews of the social Body; and he would adjure them not to be misled and deceived by the specious Seeming and Sophistries of any one who might attempt to persuade them that they would have greater Power and Influence in the proposed Changes. They would have less, for they would lose all Control over their Representatives, who would be responsible only to the Members of those District Councils who returned them. The Nature of the Colony too, its scattered Population, rendered it totally unfit for the Establishment of District Councils. In a Country with a concentrated Population such Municipalities might work, but even then the Grounds to choose a Representative for the Purpose of making local Improvements were entirely different from those which should induce them to elect a Representative Law-maker. Again, the infallible Result of such a Close Borough System must be that Bribery and all Sorts of corrupt Influence would be brought to bear on Elections, with all their concomitant Degradation and Misery. Slavery instead of Freedom, Anarchy instead of Peace, Retrogression instead of Improvement, would pervade. It was their Duty to make a Stand, a firm Stand, against the odious Measure. They had been told of the high-minded Sentiments, the noble Words which had been spoken in the House of Lords on the Subject of Colonization. He admitted these Words were noble, but practically he feared their Effect would be lost before they reached New South Wales. Like the Stone dropped into the Centre of a calm Lagoon, they knew that by a Law of Nature the expanding Circles would extend to the very Shores of the Lake, but in so gentle a Manner that they were seen and unnoticed. The Blast of the Trumpet which sounded to the Charge would vibrate through the Realms of Space; but the distant Vibrations were not audible to human Ear; and generous and high-minded as

Encl. 2. in No. 3.

the Principles laid down in the Colonization Report undoubtedly were, he feared they would scarcely reach this Colony. It was, however, to make a firm Appeal against this Measure; and the Promptitude with which all Classes of the Inhabitants of Sydney had come forward to assert their Rights would find a Response in the distant Districts. Petitions from all Quarters would pour in, and when the universal Feeling was full and firmly expressed, he trusted the Appeal would not be made in vain. (Loud cheering.)

Mr. Wentworth rose to second the Resolution, and was received with loud Cheers. In appearing before them he could not but express his Gratification at the Warmth of his Reception amongst them. It showed him that however in some Quarters the Course he had adopted on some Occasions had been disapproved, that they at least gave him Credit for Sincerity and Honesty of Intention. (Cheers.) In common with many other Members of the Council he had felt some Reluctance to take any Part in these Proceedings, because the proposed Measure being clearly intended as an Attack on the Legislative Council, to reduce its Powers, any Opposition arising from its Members might be received with Suspicion by Her Majesty's Ministers, and would have but little Weight. They would recollect, that in the Words of the Despatch it was said the Council usurped all the Power of the Colony, and the Object of the proposed Measure was avowedly to reduce that Power. But when he saw that Meeting, thronged as it was with Thousands of all Classes and Shades of Opinion,—when he saw them with One Voice repudiating this Charge, he felt that as Units they might without Suspicion join in their Deprecation of the Injustice about to be committed upon them. He denied the Assertion of Lord Grey, that the Council had usurped any Power. The Council had done its best to ameliorate the Condition of the Colony, and to give it a larger Share of political Freedom; but little had it succeeded in doing. They had sent home Petitions and Addresses, and Lists of Grievances on all Subjects; but when the Power of the Council was talked of, which of all these Grievances had been redressed? Not a single one. But it was absurd to talk of the Power of the Council as long as it had not the Control of the public Purse. What could its puny Efforts do, when, without its Consent, the Government could take a Sum of 82,000*l.* for Payment of its Officers? True, if the Council had been insane enough, had so far forgotten the Interests of their Constituents, they might have embarrassed the Government by stopping the Supplies; but the sole Sufferers would have been the Community, as the Payment of the Salaries of the Government would have gone on the same as ever. It has been objected to the Council by the Minister, that it had not put the District Councils into operation. If that was the Objection, why did not the English Government give Life to these Bodies, instead of leaving it to the Legislative Council, whose Duty it was to refuse to give them Vitality against the unanimous Wish of the People? With what Show of Wisdom and Prudence could the Legislature have put in operation a new System of Taxation when the Colony was already burdened with Imposts to a greater Extent than any other Country in the World? Was it not enough that a Colony containing about 200,000 Persons should be taxed to the Extent of 300,000*l.*? No doubt, to have burdened the Country to the Extent of some 40,000*l.* or 50,000*l.* more would have been very acceptable to the Government; but where was the Good of imposing Taxes when Men had not a Shilling to pay, and the Result of which must have been the Confiscation to the Crown of all the Lands on which they were levied? (Cheers.) There was one Peculiarity in the Despatch of Lord Grey, which was the Passage in which he speaks of the Anxiety of the public Mind in the Australian Colonies as to these new Arrangements. Now he must confess, for his own Part, that he should like to know in what Quarter this Anxiety existed. He had never heard that any such Change was in contemplation, until enlightened by Lord Grey's Despatch. In what Shape or Manner the Anxiety had been displayed it would be difficult to say. Where were the Petitions which had gone home on the Subject for any Alterations in the Constitution of the Council? True, it might be that some Difference of Opinion did exist as to the Formation of another House, but he knew of no absorbing Interest taken in the Question. The only Objection he had to the present Council was, that it did not possess Power enough. That the Restrictions by which it was surrounded were such as rendered it powerless for Good, and potent for Evil. (Cheers.) If the Schedules were withdrawn, then the People, through their Representatives, would have some Power, and this was the only Change he would advocate in the present Constitution, besides those recommended in the Report of the General Grievance Committee. It appeared to him that the Suggestions as to the Origin of this Measure were well founded. That it had arisen out of the Representations of the Governor, when he found in his numerous Encounters with the Council that it was strong enough to successfully resist Measures which it believed to be detrimental to the Interests of the Colony, but which that Government obstinately persisted in forcing upon it. Finding himself foiled in this, and that he could not always carry into effect the Wishes or Instructions of the Secretary of State, he must have made Proposals which the Minister was induced to accept, in order to make the Council subordinate to the Government, and this was the beautiful Scheme they had concocted. The Effect of this Measure would be to deprive them of the Right of Franchise, but he hoped the People of New South Wales would not submit to be despoiled thus of their inalienable Birthright. The Right of Franchise had always existed in the Anglo-Saxon Constitution, and was clearly traceable therein for at least 1,000 Years. It was confirmed in the great Charter of Great Britain, and in Twenty subsequent Charters, and finally in the Petition of Rights, and Bill of Rights at the Revolution. (Cheers.) It was too a Principle that the Rights which these Charters

Charters conferred on British Subjects should be carried by them into all Colonies planted by Great Britain; and therefore this audacious Attempt to take from them the Right of the Elective Franchise was nothing less than a gross Invasion of their Constitutional Rights. They had Constitutional Rights to this Privilege, and though Parliament have been powerful enough to withhold it so long, it had not any lawful Right to do so. (Cheers.) He was glad to find this Attempt of the Minister so unanimously resisted by all Classes. It would prove to that Minister that the People of New South Wales were not dead to a Sense of their Rights; that they wanted not his Change; and prove by their Remonstrances now that they never would accept any Change unless asked for by themselves. (Cheers.) He looked with peculiar Suspicion on this specious Boon, which the Minister so spontaneously offered to the Colony. He was firmly convinced that there must be some sinister Motive at the Bottom of it. They had never found the Colonial Office so ready to concede Boons when asked, as to be deluded into the Belief that they had now commenced to grant them of their own Accord. He did not believe there was any Good in it, on this ground alone, that if there had been, it would never have been offered. The Right of Franchise they had to importune for for more than Twenty Years, and now they had got it it was found to work too well for the Minister at home, to surely effect the Ends for which the glorious Privilege was designed, and so forsooth they would take it from them to give them something they did not want, and had not asked for. The Constitution, as proposed by Earl Grey, portended the most disastrous Effects. It would result in the same Spirit of Despotism, of unrestrained Bribery and Corruption, which existed in France, where the Members of the Legislature were elected by the Electoral Colleges, instead of the Mass of the People. Who could doubt the Corruptions of a System which took the Elective Franchise from the Thousands who exercised it, to vest it in some 200 Persons, who could at all Times be brought under the Influence of the Government, and over whom the People would have no Sort of Control? The same System in France, where the Elective Privilege was enjoyed by only about 180,000 out of a Population of about 40,000,000, had involved the grossest Corruptions and Abuses. A System of Bribes prevailed by which the Government, with the Means at its Command, could always secure a Majority in order that they might do as they liked with France; and they did do as they liked with that unhappy Country. This Measure would lead to the same Results; it was founded on the same Principle, and he warned them not to be deluded by it, but to scout it; to tell the Minister formally and boldly that they love their Constitutional Freedom too well not to abhor his Measure, and that they will have none of it. (Loud and continued Cheers.)

The Resolution was passed unanimously.

Mr. Michie.—If a Prize had been offered for a Plan for effectually enslaving a Community by some illusory Proposition of Concession of popular Rights, he believed that Earl Grey would in this Measure of his have carried off that Prize. (Cheers and great Laughter.) When he (Mr. Michie) left London he had a Vote for that City, and it was now proposed to take away that Right, of which, if any Government or Parliament attempted to deprive the meanest Citizen there, the Empire would rise as One Man to resist and punish the base Design. (Cheers.) It was said by some of the preceding Speakers that there were Parts of the Despatch which should be touched tenderly, as there might be Differences of Opinion about them; he was actuated by no such Scruples. He could see no Part of this most notable Scheme which was not most unwise and most wicked and unjust, and therefore in the few Remarks he had to make he should not feel called upon to approach with bated Breath anything that had emanated from his Lordship. (Cheers.) The whole Scope and Drift of the Scheme was, that the Inhabitants of New South Wales should have no Vote in the Election of their Representatives, except through the Medium of those District Councils; that these impracticable Municipalities were to be the only Means by which the Voice of the People could be brought to bear upon the Legislature, and the Members of these Bodies the only Persons in the Community to whom it would be safe to intrust this Duty of Election. (Cheers.) Now what was the Occasion of this Change? It had been suggested that the Council as at present possessed too much Power. Whatever Power they might possess, it did not seem as yet that they had ill-used it, or that the Colonists were at all dissatisfied. But if, in the Infancy of free legislative Institutions in the Colony, that Legislature should be somewhat crude, rash, or incautious, who could suffer by it but the Colony; who so interested in trying to cure the Defects in it as the Colonists alone affected by it? Are the Colonists so void of Common Sense and Intelligence as not to be able to see whether a Scheme of Legislation works beneficially or not? While, then, they had tried the present Constitution they found it work well; they found no fault with it, they asked no Change in it; and why fly to this System of District Councils? Why turn from the smaller Evils of our present Condition, "to fly to others "that we know not of?" (Cheers.) But the District Councils and the Annihilation of the elective Franchise were not all. This would not be a sufficient Restriction on popular Influence, and so they must have a Legislative Council of Crown Nominees to sustain the Government Influence. But where were the Materials to come from in a Colony like this? Was it supposed for a Moment that such a Body would be in any way analogous to the House of Lords? Where would they find learned Lords to guide their Decisions? Where would they find any Fifteen Judges to direct their Councils? These Elements would be entirely wanting. What Substitute would they find for them? He should propose that such an Assembly should consist of the entire City Magistracy (Roars of Laughter);

Encl. 2. in No. 3.

Laughter); and perhaps, to make the Thing complete, they should have the Judge of the Court of Requests sitting on a Woolsack as a Substitute for the Lord Chancellor. This was the Scheme dished up for New South Wales; this gross Piece of political Quackery. He intensely abhorred Quacks of every Description, whether they were Quacks medical, Quacks legal, or Quacks political. But of all quack Schemes never was one that equalled this. He looked upon it as a Kind of political Holloway's Pill (great Laughter), which Doctor Grey was to administer to cure all the Diseases, including the Excess of Power of the Council, under which the Colony laboured. They would see the Colony figuring Morning after Morning as a Kind of Set-off to the Earl of Aldborough. "New South Wales cured by Grey's Holloway's Pills, administered with the District Council Ointment." (Great Laughter.) He did at first pause whether it were not useless to take any Measure of Resistance, as he questioned whether they might already be politically defunct; but more mature Reflection had convinced him, that standing as they did, as it were between Life and Death, it was their Duty to come forward energetically and determinedly, in order that it might not be thrown in the Teeth of those good Men and true who would have to fight their Battle on the Floor of Parliament, that they had not sought to avert this Evil. The Minister of England knew very well that the People of New South Wales knew their Rights very well; and if they neglected to petition and protest and remonstrate, it would be argued that either they understood this Measure, and accepted it, with all its Evils; or that, knowing them, and anxious to avert them, they were content politically to die, and make no Sign. True, they might at present be a kind of Political Ghost, but it might be the Bill had not yet passed. They knew that a Whig Ministry was in; but they also knew that Whig Ministries of late Years had been very short-lived; and if Mr. Gladstone should have returned to Power, after the unceremonious Manner in which his New Settlement of North Australia had been disposed of, he would not be likely to be over-tender in slaughtering these little Innocents of District Councils of my Lord Grey. (Cheers, and great Laughter.) But whatever the political Squabbles of Ministers might be, it was at least a comfortable Reflection that when Whigs and Tories fell out, patient and suffering People got their own. The Resolution he had to propose was—

> "That in consequence of the Dispersion of a large Portion of the Inhabitants of this "Colony, any Measure establishing Municipalities similar in Principle to the "District Councils attempted to be created by the Act of Parliament 5 & 6 Vict. "c. 76. would be so repugnant to the Wishes and so adverse to the Interests of "this Community, that it is utterly impossible that it could ever be brought into "effective Operation."

Dr. Wallace seconded the Resolution.

Mr. Oakes felt it his Duty to come forward to make some Observations on the Reflections that had fallen from some of the Speakers in reference to District Councils, particularly that of Parramatta, of which he was a Member. (Great Laughter.) It was not true that the Parramatta District Council had done no Good. It had done a great deal of Good. (Cries of "Sit down," and "Go back.") It had not only expended Money (tremendous Laughter), but it had spent it well and advantageously to the District. But although he felt bound to stand up for the District Council of Parramatta, he no more approved of the present Measure than any one present, and should most strenuously resist it. The District Council at Parramatta had done their Duty; but they were not fit to be trusted with the Election of Members of Legislative Council. (Cheers.)

The Motion was then put, and carried unanimously.

Mr. James Macarthur would endeavour to compress the Observations he had to make into the least possible Space, as he saw the Meeting was getting rather impatient, and the Hour too was growing late. The Resolution he had to move was as follows:

> "That the Colonists protest against being thus made the Subject of theoretical Experi- "ments in Legislation, and are anxious to enjoy a Form of Government founded, as "nearly as Circumstances will admit, upon the Principles of the British Constitution."

This Resolution enumerated Two distinct Propositions, both of which he intensely felt the Importance of. He contended, and would ever contend most zealously, that every British Subject had a Right to enjoy those constitutional Privileges which had at all Times been so dear to Englishmen. Though an Australian by Birth, he felt that he had a Right to stand there, and lift up his Voice to denounce this most fatal Measure. He had a Right to reflect back upon the parent Country the Ignominy and the Shame she would inflict upon Australia in daring to offer such a Scheme for enslaving her; aye, a prouder Right than had any noble Peer who could consent to such a Proposition. He cared not whether this Scheme emanated from a Grey or from any one else, but he protested indignantly against it as a flagrant Breach of British Law. The Constitutions of all the Colonies contain Provisions that the local Legislatures should not pass any Act repugnant to British Law. How then, could any Minister attempt to insult this Colony with an Act by which the first and highest Principle of the British Constitution would be violated? He, however, laid not all the Blame of this atrocious Measure to Earl Grey, although as Colonial Minister he had affixed his Name to the Despatch, and of course must be held responsible for it. There was, as they all knew well, a behind-the-Scene Influence in Downing

Downing Street, where a Mr. Nobody or a Mr. Somebody were all-powerful, and who foisting Measures to serve his own Purposes on the Minister, then left him to fight his dirty Battles for him. He did not believe that Sir George Gipps had been the Author of the Measure, although it might be, from his pre-conceived Impressions formed in Canada, he might have strong Prepossessions in favour of these District Councils. But though a System of Municipalities might be very well suited to Canada and the American Colonies, although he had never been able to find anything analogous in the American Municipal Institutions to those Councils, they would be utterly impracticable here. It would be impossible to work them, even under the present Act, far less under the much worse Proposition of Earl Grey. It has been urged by Mr. Oakes, that the Parramatta Council had worked well; but he must say that he agreed with Mr. Martin, that it had not performed any of the Functions for which it was designed. It was true it had effected much good by spending Money derived from Tolls, and which must have been spent by some one, better than it had ever been spent before. But it was impossible to find in America, or any other Colonies, any such Bodies as were proposed to be formed under this Measure, and endowed with the sole Power of electing Members to the Legislature. Mr. Martin had quoted from Storey, the very highest Authority, from which they found that the Principle did not exist, and never did exist. In addition to the Authority already quoted, he would read an Extract or two that would confirm them, and show the Folly and Danger of constructing Constitutions on mere theoretical Principles. He quoted from Chalmers' Annals of the United Colonies of America:— Encl. 2. in No. 3.

"Lord Baltimore, the Father of his Province, having lived to enjoy what few Men ever "possess, the Fruit of the Tree which his own Hands had planted and watered, died in the "Beginning of 1676, covered with Age and Reputation, in the Forty-fourth Year of his "Government. Too honest a Man to scatter the idle Theories of the Projector among the "Million, he published no Scheme of ideal Commonwealths to delude his Followers; and "too wise not to mark the solid Texture and excellent Balance of the English Constitu-"tion, he resolved to build upon its Plan, and to rear that of Maryland with all possible "Consimilarity.

"After a few gradual Changes, proceeding from the Increase of Population and Altera-"tion of Circumstances, that Form was soon established which has happily continued to the "present Time (1780). In the Governor, the Council, and House of Representatives, we "see the King, the Lords, and Commons of England in miniature."

He should be glad to see Two Houses erected when they were fit for it; the Principle he thought a Piece of Justice, but they were not fit for it yet. They had no Materials for an upper House, and could not have for very long to come. In the same Author he found the following, in relation to the Constitution of South Carolina and Pennsylvania, and also of Maryland:—

"Thus at the End of Twenty-three Years finished the Labours of Locke; thus was "abrogated, upon the Requisition of the Carolinians, who had scarcely known One Day of "real Enjoyment, a System of Laws intended to remain for ever sacred, but which, far from "having answered their End, introduced only Dissatisfaction and Disorder.

"The Carolinian Annals show all Projectors the Vanity of attempting to make Laws for "a People whose Voice, proceeding from their Principles, must ever be the supreme Law.

"The theoretical Frame of Government introduced by Penn underwent a similar Fate "to the no less impracticable Constitutions of Locke. It was at once found inapplicable to "the Condition of the Colony; and, after a Variety of Alterations which did not amend it, "it was at length wholly laid aside, and a simpler Form established. What happened to "both offer this instructive Lesson to Mankind,—to be content with the Principles handed "down to them by their Fathers, and to be cautious how they remove ancient Foundations, "in their Eagerness to adopt the Speculations of Theorists.

"The Constitution of Maryland was simple, and therefore solid and durable. Under it "the People enjoyed Repose to the Period of the American Revolution. Those of Penn-"sylvania and Carolina were too theoretical to be practicable, too flimsy to prove lasting, too "complicated to work harmoniously; yet what did Honour to the good Sense of Calont has "conferred no Celebrity on his Name; whilst that which was too wild and speculative to be "useful has acquired the Praise and Approbation of Philosophers."

He had already adverted to one Principle of Colonial Legislation, that it must not be repugnant to English Law; but there were other Principles which in the present Measure seemed to be entirely lost sight of, and in relation to which he would cite the eminent Authority of Mr. Justice Halliburton:

"To what Extent the British Parliament has a Right to interpose its Authority, or how "far the Power of the Colonial Assembly extends, it is impossible to ascertain with Accuracy. "The Doctrine of the Competence of the one and the Independence of the other has at dif-"ferent Times been pushed to the Extreme by the Advocates of each. The true Distinction "appears to be that Parliament is supreme in all external, and the Colonial Assembly in all "internal Matters. The unalterable Right of Property has been guaranteed to the Colonies "by the Act renouncing the Claim of Taxation, the 18th Geo. 3. * * * Taxation is "ours, Commercial Regulation is theirs; this Distinction, says a distinguished Statesman, "is involved in the abstract Nature of Things. Property is private, individual, abstract; "and it is contrary to the Principles of natural and civil Liberty that a Man should be

 "divested

Encl. 2. in No. 3.

" divested of any Part of his Property without his Consent. Trade is a complicated and " extended Consideration; to regulate the numberless Movements of its several Parts, and " to combine them in one harmonious Effect for the Good of the whole, requires the super- " intending Wisdom and Energy of the supreme Power of the Empire. The Colonist " acknowledges this Supremacy in all Things, with the Exception of Taxation and of Legis- " lation in those Matters of internal Government to which the Local Assemblies are com- " petent. * * * But in Matters of a local Nature the Imperial Control is well secured " by the Negative of the Governor; by his standing Instructions not to give his Assent to " any Law of a doubtful Nature without a Clause suspending its Operations until the King's " Pleasure be known, and by the Power assumed and exercised of disagreeing to any Law " within Three Years after it had passed the Colonial Legislature. With these Provisoes it " is absurd to suppose, whatever may be said to the contrary, that the local Assemblies are " not supreme within their own Jurisdiction; or that a People can be subject to Two " different Legislatures, exercising at the same Time equal Powers, yet not communicating with " each other, nor from their Situation capable of being privy to each other's Proceedings.

* * * * * * * * *

" I have already observed that the true Line is, that Parliament is supreme in all " external, and the Colonial Assemblies in all internal Legislation; and that the Colonies " have a Right to be governed within their own Jurisdiction by their own Laws, made by " their own internal Will. But if the Colonies exceed their peculiar Limits, form other " Alliances, or refuse Obedience to the general Laws for the Regulation of Commerce or " external Government, in these Cases there must necessarily be a coercive Power lodged " somewhere; and it cannot be lodged more safely for the Empire at large than in Parliament, " which has an undoubted Right to exercise it in such Cases of Necessity."

From this Authority it will be seen that in all Matters relating to themselves they are the right Persons to judge of what is best for them; and surely in a Question of this Sort, the Bearings of which must be governed so entirely by the internal Circumstances of the Colony, there could be no Doubt that the Colonists were the best Judges. Another Objection to this System of District Councils was, that in giving them the Power of double Election, the little Good that was previously in them would be destroyed, and they would become the mere Instruments of all Sorts of Mischief. It filled him with Indignation to see an Attempt at speculative Legislation of this Sort attempted to be foisted on this Colony. He said this not in Bitterness of Spirit, but he trusted that the Colony would stand firm, and protest against this Measure; that they would send their Remonstrances and Memorials to Her Majesty's Government, to prevent Vitality ever being given to this Measure. As for the after Destiny of the Colony, he had no Doubt that it would be a bright one; that a long and glorious Career was reserved for it; but as an Australian, on the Part of the Colony, he entered his deep and solemn Protest against this Attempt to subvert its constitutional Liberties.

Mr. Lowe rose to second the Resolution, and was received with deafening Cheers from all Parts of the House. He had no Authority to read to them, but he had one to cite. He spoke to their Feelings as Men, as British Men, and it needed not that he should read his Authority to them, for he well knew that there was not a Man in the Assembly who had not the Authority on which he stood graven upon his Heart. That Authority was the British Constitution. (Tremendous Cheers.) He would not refer to any of the Constitutions made up on Speculation by rash Politicians, scheming Experimentalists, speculative Empirics, crack-brained Philosophers, or witty Schoolmen; but he referred to that great and noble Constitution, the Bulwark of English Liberty and English Rights, which had ripened with Time, and grown with the Growth of Ages, beneath the jealous and fostering Care of the Wisdom and Experience of great and learned Men; that Constitution which with the Lapse of Time was stable as the Hills, and was justly their Pride and Honour, and which in its Guardianship of the Liberties of the Subject had become the Joy, the Pride, the Emulation of the Universe. (Cheers.) The Resolution he was called upon to second wished to assimilate the Constitution of this Colony to that of the Parent Land; and if there was a Man among them who refused to assent to it, he would tell him with Scorn and Contempt he was unworthy of the Name of Freeman. It was under this Constitution that they had enjoyed, since a Period that could not be traced out, the glorious Boon of living under Laws made by the Men elected by their own Choice. This was the Principle they were seeking to bring out here; this was the System which had been the cherished Pride of the Anglo-Saxon Race in all its Wanderings; and this was the only intelligible Principle of Representation, and not the degraded, absurd, nonsensical Scheme propounded by Earl Grey. Under this Principle, if he were elected to represent any Constituency, he should know what to do. He should explain his Principles to his Constituents, and if they approved of them they would return him; but under this atrocious Scheme he could know only the Ten Jobbers who sent him there, and protect their Interests, to the Injury of the 1,000 who might not want him at all. This was the Constitution they were asked to accept as an Extension of constitutional Privileges,—this miserable Counterfeit, by which they were to be chiselled, cheated, choused out of their dearest constitutional Right. (Cheers.) And how would this famous Plan work; what would be its Effect, but to give the Government an absolute Control of the Legislature? With the Means at the Disposal of the Government, its immense Revenues, Places could be made, Honours

conferred

conferred on these District Councillors to enlist them in favour of the Government, until the elected Legislature would cease even to represent their Ten Constituents, but would become entirely subservient to the Government. (Cheers.) And what a Position for a Man of Honour, Education, and Independence to represent such a Body. Before he could descend to such degrading Meanness, such grovelling Servility, as to become the Delegate of these Men, Honour, Education, and Independence must be alike forgotten. He repeated, their "Delegate," not their "Representative," for the Test of the Support of One of these Ten Jobbers would be, what could he do for his Son Jack. The Power would now all be given over to these Ten Individuals; and never did an Instance of such Impolicy occur that the Power delegated was not grossly and systematically abused. (Cheers.) He had thought that it was the Policy of good Government to provide for Peace, and not for Anarchy,—to centralize, not to federalize. What would be thought of any such Attempt to establish this local Representation and this Principle of double Election in any of the Counties in England? It was never attempted in England, or in any of the other Colonies; but it was attempted here, of all Places, where, instead of the Land belonging almost entirely to Individuals, it nearly all vested in the Crown. Suppose such a System were introduced into Cornwall, there would be a general Resistance from Fear of Ruin; but here Money was to be raised by Taxation by these local Bodies, to be expended in Roads and Bridges on Crown Lands, in the Effort to gull others to come out. There was another Point, that the Establishment of these local Legislatures all over the Country would give rise to Confusion as to the Jurisdiction, and endless Dissension would be the Consequence. As others had done, he had felt some Doubt whether, as one of those Oligarchs mentioned in the Despatch, one of those aristocratic Giants that grind everything here beneath Foot, he ought or ought not to take any Part in the Proceedings; but when he saw a Meeting like the present, which no Power of any Members of the Council or their Deputies could have got together, he felt he was called upon to take this Duty on himself. As for the Approval or Disapproval of the Colonial Office of the Proceedings of the Council, he must say, that, looking as he did at any of the Persons connected with that Office with the most unmitigated Contempt, he felt their Dislike of their Proceeding to be an Honour, and a Proof in itself that they had fulfilled their Duty to the Colony and their Constituents. He could only advise them that should they ever have a Council on which the Sun of Downing Street Favour should shine, to take the earliest Opportunity of packing such a Council about its Business as a Set of dishonest Traitors to the Trust imposed in them. (Laughter and Cheers.) Previous Speakers had indulged in some Speculation as to the Origin of this proposed Measure, and he might perhaps be permitted to give his own Speculations on the Point. When the Constitutional Act was passed, it was attempted to foist these District Councils on the Colony, except that the Representatives of the People stepped in to stop these Hell-hounds of Confiscation. The Legislature would not vote these Councils the Power to levy Rates, which would have had to be collected by the Government, perhaps at the Point of the Bayonet, and certainly to the utter Ruin of the Colony. The Downing Street People saw that the Legislature could discriminate the Bad which was so mixed up with the Good in the Boon offered; and, determined to have its Will, they mixed up the Bad with the Good so that neither could be accepted if both were not. They did what the Tyrant of old did; they tied the living to the dead,—fastened these inanimate Corporations to the quick Vitality of Elective Representation; and then, as Earl Grey proposed, insisted on their taking what they had before rejected. (Great Cheers.) This was the Way in which the Colonial Office played upon the Feelings of the Colonists, and trifled with their dearest Rights and Liberties. Because they had a Spirit of Independence,—because they had Feelings of Veneration and Love for the Constitution of their Forefathers, and which conferred on them the same Privileges as an inalienable Right,—they were to be crushed by this Measure, which either by Force or Fraud was to be foisted upon them. But if the Colonists were of his Mind, they would show the Minister that there was a Limit beyond which the sluggish Legislation of Downing Street could not pass. Although they might hear of their Weakness, and, relying on the Strength of the irresponsible Power they wielded, they might withdraw the present Constitution, and they might inflict upon them the other,—yet there was one Thing they could not do,—they could not make them accept the Act, and act upon it. They might take the Horse to the Water, but they could not make him drink; they might tie the Millstone round their Necks, but they could not make them carry. They might pipe, but the Colonists need not dance; and if they would be advised by him, they would leave this Act, this damning Proof of Colonial Office Tyranny, to rot in its own Loathsomeness,—to put it from them as a Thing accursed, and have no Part whatever in working it. (Immense Cheers.) If they were not indeed Bastards to the Race they sprung from, they would never become Instruments to their own Slavery and Ruin; they would never, under any Sufferings, any Sacrifices, surrender that constitutional Freedom, fought and bled for by their Ancestors, and without which Life to an Englishman must be a galling Slavery. (Cheers.) He for one would show them an Example, and would denounce as a Traitor to his Country, as a Renegade from the Spirit of Freedom of his Race, any Person who should by Act or Part, by electing, or suffering himself to be elected, assist in carrying out the Provisions of this detestable Measure. The Colonial Minister might send it, but the Colonists might leave it to itself. (Cheers.) He disclaimed in this Instance anything like the Policy of making the best of it. Let them leave the wretched Offspring of Tyranny and Indolence still-born—dead. (Cheers.)

Encl. 2. in No. 3.

Encl. 2. in No. 3.

They had no Power to resist this Measure forcibly. It would, indeed, be idle for them to measure Strength with the greatest Power on Earth. Out of their Weakness grew their Strength; they could passively resist, and let them leave this Act to them altogether. Let them, when they found that the Colonists will not accept it, will not on any Condition have anything to do with it, will not pollute their Souls by putting any of its foul Provisions into operation,—let them take their Scheme back amidst the Shouts of Ridicule which shall reverberate through the Empire at their ridiculous Miscarriage. (Tremendous cheering.) He wished to be understood. He did not say this with any Hope of averting the Evil; he felt perfectly assured in his own Mind that the Act would pass, that they would have this slavish Constitution forced upon them. He, however, would be no Party to it. He would not stoop to be the Thing into which my Lord Grey, or any other Colonial Minister, wished to make the Representative of a British Community. He repeated, he had made these Observations not in hope, but with the View of pointing out a Scheme by which the Machinations of those who would enslave them might be defeated; and he would pray to that God who was always ready to succour an oppressed People, to grant them Firmness and Patience in the Ruin that was impending over the Colony, that they might not basely and infamously assist those who were conspiring to ruin it. (The honourable Gentleman resumed his Seat amidst tremendous Cheering, which was continued for several Minutes.)

The Resolution was then put, and carried unanimously.

Mr. C. Kemp said, that those who had read Lord Grey's Despatch would observe that the first Half of it consisted of Arguments respecting the proposed Division of the Colony, and the Erection of Port Phillip into the Colony of Victoria, and then followed these Words:

"Her Majesty's Government therefore hope, in the next Session of Parliament, to introduce a Bill for the Division of New South Wales into Two Colonies, the Northern of which would retain its present Name, while the Southern Colony would, by Her Majesty's gracious Permission, receive the Name of the Province of Victoria. The Effect of this Alteration would be to render inevitable some Changes in the existing Constitution of the Northern Government. When detached from the Southern Districts, the existing System would cease in many respects to be appropriate and applicable to its new Condition; and there appear also to be some Particulars in which the practical Operation of the present Constitution proves that it might with Advantage be revised."

After that, the Despatch pointed out the various Changes intended, and which had been dwelt upon by previous Speakers. It would appear from this that the intended Separation of the Colony was put forward as the Reason why these Changes should be made at this particular Time; and he had therefore to move the following Resolution:—

"That the Erection of Port Philip into a separate Colony affords no sufficient Reasons for such Innovations."

This might appear almost a Truism, but, for the Reasons stated, he conceived the Resolution necessary. The Fourth Section of the Constitutional Act (5th and 6th Victoria, c. 76.) gives the Legislative Council of the Colony Power to increase the Number of Members, alter the Electoral Districts, and make new ones, the only Proviso being that the Proportion between the elected and nominated Members shall remain as heretofore, Two to One. All, therefore, that will be requisite when the District of Port Phillip ceases to belong to the Colony will be for the Legislative Council to distribute the Six Members among the Districts least represented, and the Government would go on as at present.

r. Holden seconded the Motion, which was carried unanimously.

Mr. Cape said, that as the many luminous Addresses which they had heard in support of the previous Resolutions, compassing nearly every Topic to be considered by the Meeting, had detained them to this late Hour, he would not dwell upon the Resolution now to be proposed.

"That the Colonists are entitled to expect that no important Alteration in the Constitution which they enjoy shall be made without their previous Assent."

The Changes to which the Colonies were so continually subject, from the Succession of Secretaries and Under-Secretaries of State, were, with other Events deeply affecting the Interests of these Communities, forming a History,—the History of the Colonies, which it was their Duty to bear in mind. The Moderation and Loyalty of the People in this Colony could not be doubted, when, under a Feeling of such Excitement as that induced by the Despatch of Earl Grey, the Resolutions which had been passed so unanimously, as embodied in the Petitions from the People, were only in accordance with the Principles of the British Constitution. And if unhappily this Scheme should, without any reference to themselves, become Law, it would be well that they had had this Meeting; for though they may not alter the past, it would better prepare them for the future.

Mr. Thacker was proud of the humble Duty that had been cast upon him of seconding the Resolution. He concurred in all that it contained, and was indeed disposed to go even further, and to say that all Alterations and Amendments in their Constitution should be made by themselves; and he felt so much the Danger of trusting to irresponsible English

Legislation

Legislation on the Subject, that he had no Hesitation in saying that he would rather trust his Liberties to the most despotic Government that ever existed, than to any Gentleman at the Head of the Colonial Office. (Cheers.) Encl. 2. in No. 3.

The Resolution was passed unanimously.

Mr. Alexander moved the Seventh Resolution, as follows:

"That the following Petition, embodying the foregoing Resolutions, be presented to "Her Majesty the Queen, and both Houses of Parliament."

Captain Rossi seconded the Resolution. It was the first public Meeting he had ever attended, but so deep was his Horror of the Scheme proposed by Earl Grey, that he had felt it his Duty to come forward. He agreed with all that had been said concerning the Measure; but there was one Point which he wished to notice, in order that Justice might be done to one who was now no more. It had been suggested by some Speakers, that Sir George Gipps was the Author, or had recommended this Measure. Now, it had come to his Knowledge a Day or two ago, that a Copy of this very Bill had been sent to Sir George Gipps by Earl Grey, then Lord Howick, with Instructions to confer with Sir John Franklin, then Lieutenant Governor of Van Diemen's Land, as to the Applicability of the Measure to the Circumstances of the Colonies. The Report that both sent home was, that it was not so. (Cheers.)

The Resolution was then passed.

Mr. Edward Cox proposed the Eighth Resolution, as follows:

"That the Petition to Her Majesty the Queen be transmitted to his Excellency the "Governor, that to the House of Lords to the Right Honourable Lord "Monteagle, and that to the House of Commons to the Honourable Francis "Scott, the Colonial Agent."

Dr. Bland seconded the Resolution, which was carried.

Mr. Norton then proposed, and Captain Rossi seconded, that the Right Worshipful the Mayor do now leave the Chair, and that the same be taken by Mr. James Macarthur.

The Mayor having left the Chair, the Thanks of the Meeting for his able and impartial Conduct whilst presiding over the Meeting were voted and acknowledged.

The Meeting broke up in the most orderly Manner.

No. 4.

No. 4. Earl Grey to Governor Sir C. FitzRoy, 31st July 1848.

(No. 133.)

COPY of a DESPATCH from Earl GREY to Governor Sir CHARLES FITZROY.

Page 6.

Sir, Downing Street, 31st July 1848.

1. I HAVE to acknowledge your Despatch, No. 3, of the 6th of January last, in which you report the Steps which you had taken to collect the Opinions of the Community over which you preside in relation to the Measures proposed by me in my Despatch of 31st July 1847, and also No. 31, of the 2d February last, enclosing a Petition from a large Number of the Householders and Inhabitants of Sydney and its Vicinity deprecating any Change in the Constitution of the Colony which shall not have received the previous Sanction of the Colonists at large.

2. I can only repeat my Expressions of Sorrow for the calamitous Events which rendered you unable to give that personal Attention which you would otherwise have been anxious to devote to the Consideration of these important Subjects, and at the same Time assure you that I feel every Reason to be satisfied with the Proceedings which you found it in your Power to adopt.

3. I have given my best Consideration to the Representations thus addressed to me, and have delayed answering you for some Time in consequence of the Expectation held out in your Despatches of further Petitions on the same Subject, which have not yet arrived. My Anxiety not to act without being fully in possession of the Views of the Inhabitants of New South Wales on the Question of their future Government has thus caused a Delay, which at the now advanced Period of the Session renders it impossible that any Measure can be introduced into Parliament with a Prospect of being carried through; it becomes therefore unavoidable to postpone Legislation on this Subject until next Session, when Her Majesty's Government will be prepared to undertake the Task in full Possession of all the available Materials. Enough, however, has transpired to give me an Insight into the general State of Opinion among the Colonists, and to enable me, in consequence, to state the Outline of the Measures which I am prepared to recommend.

4. I collect

No. 4.
Earl Grey
to
Governor
Sir C. FitzRoy,
31st July 1848.

4. I collect from the Documents now before me, that the Objections most strongly felt throughout the Colony to the Views propounded in my Despatch relate to the Project of making the District Councils serve as constituent Bodies to the Legislature; and, though in a less Degree, to the Division of the Legislature into an Assembly and a Council, according to the ordinary Pattern of the Governments of those Colonies which derive their free Institutions from Great Britain.

5. With regard to the first of these Suggestions I certainly continue to believe, that in Colonies possessing an extensive Territory it is highly desirable that the purely local Affairs of different Districts should be intrusted to the Management of some local Authority distinct from the general Legislature, and that the surest Method of preventing a Conflict between such Authority and the Legislature is to make the latter emanate from the former; but I can have no Wish to impose upon the Inhabitants of the Colony a Form of Government not in their Judgment suited to their Wants, and to which they generally object, and shall therefore not think it necessary to advise the carrying of this Proposal into execution.

6. With regard to the Division of the Legislature into Assembly and Council, your own Opinion, founded, as you state, on long practical Experience, that it would be a decided Improvement upon the present Form of the Legislature in New South Wales, is one to which I have already stated my own Adherence. Had, therefore, the general Feeling of the Colony responded in any Degree to the Views expressed by myself, I should have had no Hesitation in advising Her Majesty's Government to lay before Parliament the Measures necessary to accomplish the Change. But it is not such a Reform as I consider it to be at all incumbent on the Legislature at home to press on an unwilling, or even an indifferent People; their Interests will, I think, be better served by leaving in their own Hands the Power of effecting it whenever they shall see Reason to do so. Nor am I insensible to the Difficulty which might be found to exist, if not in the Northern Districts at least in Port Phillip, in finding at first a sufficient Number of Persons, unconnected with Government, qualified and willing to act as nominated Members of a separate Legislative Council.

7. Having premised thus much in answer to the Observations contained in your Despatch and its Enclosures, I will proceed to state the Measure which Her Majesty's Government have it in contemplation to introduce into Parliament, in order to effect at once the Separation of Port Phillip from New South Wales, and certain ulterior Objects which will be explained in the course of this Despatch.

8. The Bill for this Purpose will, in the first place, effect no Change in the Composition or Authority of the Legislative Council of New South Wales, beyond such as are the necessary Consequences of the Separation.

9. It will also establish in Port Phillip a Legislature similar in Character to that which now exists in New South Wales.

10. It further appears to me advisable that the same Bill should contain Provisions for the Establishment of Representative Institutions in the Colonies of Van Diemen's Land and South Australia. In the former the Numbers of the Convict Population, and the strict Discipline which it was necessary in consequence to maintain, have hitherto been regarded as presenting Obstacles to the Adoption of any System of Self-government, but it now appears to me that such a Measure ought no longer on this account to be delayed. In South Australia no such Obstacles have ever existed; and the rapid Advance of its Population in Numbers, and in Wealth and Intelligence, appears to indicate that the Time has fully arrived when that Province should take its Place among the self-governing Colonies of the British Empire. I propose, therefore, that in both these Colonies the Principle of popular Representation should be introduced, and that this should be effected by adding to their existing Legislatures elective Members, bearing the same Proportion to those nominated by the Crown as in New South Wales. But as this Form of Government, while upon the whole it may be the best adapted to present Circumstances, is one which may admit of much Modification and Improvement under the Suggestions of Experience, and as the Australian Communities are, in my Opinion, fully competent to originate and to discuss for themselves any Changes in this Portion of their Institutions, I have it further in contemplation to recommend that their respective Legislative Councils should have Power to make such Alterations in their

No. 4.
Earl Grey to Governor Sir C. FitzRoy, 31st July 1848.

own Institutions as they may think expedient; subject, however, to the Condition, that no Ordinance which any such Legislative Council may pass for this Purpose shall come into force until it shall have been specially confirmed by the Queen in Council, after being laid for One Month before both Houses of Parliament. By this Arrangement, Provision will, I trust, be made for accommodating the Constitutions of these thriving Colonies to the Wants and the Wishes of their Inhabitants, while at the same Time the necessary Security will be taken against the Introduction of rash and ill-considered Changes.

11. There is another Subject to which, in making the proposed Arrangement, it will be necessary to advert. The Communication by Land between the Districts of New South Wales and Port Phillip is already completely established; that of the latter, with South Australia, is becoming not inconsiderable; and, in the rapid Progress of Events in those advancing Communities, the Intercourse between them will yearly become more and more intimate and frequent. If, therefore, these Three Portions of the Mainland of Australia should be placed under distinct and altogether independent Legislatures, each exerting absolute Authority as to the Imposition of Duties on Goods imported, the almost inevitable Result will be that such Differences will grow up between the Tariffs of the several Colonies as will render it necessary to establish Lines of internal Custom Houses on the Frontiers of each. The extreme Inconvenience and Loss which each Community would sustain from such Measures needs no Explanation. It will therefore be absolutely necessary to adopt some Means of providing for that Uniformity in their Commercial Policy which is necessary, in order to give free Scope for the Development of their great natural Resources, and for the Increase of their Trade. In what Manner this may best be accomplished is a Question of some Difficulty, which I must reserve for more mature Consideration.

12. I regret the Delay which has occurred (although from Causes independent of Her Majesty's Government) in carrying into effect this necessary and urgently required Measure; but the Time lost will not be regretted, if the Consequence of that Delay should be the framing of a Measure more complete in all its Parts, and more in accordance with the now ascertained Views of the Australian Community, than could have been the Case if Legislation had been attempted during the present Session of Parliament.

I have, &c.
(Signed) GREY.

No. 5.

No. 5.
Earl Grey to the Lieut.-Governor of South Australia, 3d August 1848.

(No. 36.)

COPY of a DESPATCH from Earl GREY to the Lieutenant Governor of SOUTH AUSTRALIA.

Sir, Downing Street, 3d August 1848.

I TRANSMIT to you herewith, for your Information and Guidance, a Copy of a Despatch which I have addressed to the Governor of New South Wales, explaining the Principles of the Measure which Her Majesty's Government propose to introduce at as early a Period as may be practicable of the next Session of Parliament, and which, while it would effect the Separation of the District of Port Phillip from the Colony of New South Wales, and its Formation into a separate Government, would at the same Time provide for introducing the Principle of Popular Representation into the Governments of Van Diemen's Land and of South Australia, by the Addition of Elective Members to their Legislative Councils, bearing the same Proportion to those nominated by the Crown as that which is now established in New South Wales. The Motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the Form of Legislature now existing in the former Colony, instead of creating Two distinct Chambers, are fully stated iu the enclosed Despatch. And it appears to me, that there is no sufficient Reason for departing from the same Form of Constitution in those Colonies to which Representative Government will be now for the first Time extended. It is unnecessary to recapitulate those farther Points, which you will find sufficiently noticed in the Despatch in question.

31st July 1848. No. 133. p. 45.

I have, &c.
(Signed) GREY.

No. 6.
Earl Grey to the Lieut.-Governor of Van Diemen's Land, 3d August 1848.

31st July. No. 133, p. 45.

No. 6.

(No. 124.)

COPY of a DESPATCH from Earl GREY to the Lieutenant Governor of VAN DIEMEN'S LAND.

Sir, Downing Street, 3d August 1848.

I TRANSMIT to you herewith, for your Information and Guidance, a Copy of a Despatch which I have addressed to the Governor of New South Wales, explaining the Principles of the Measure which Her Majesty's Government propose to introduce at as early a Period as may be practicable of the next Session of Parliament, and which, while it would effect the Separation of the District of Port Phillip from the Colony of New South Wales, and its Formation into a separate Government, would at the same Time provide for introducing the Principle of Popular Representation into the Governments of Van Diemen's Land and of South Australia, by the Addition of Elective Members to their Legislative Councils, bearing the same Proportion to those nominated by the Crown as that which is now established in New South Wales. The Motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the Form of Legislature now existing in the former Colony, instead of creating Two distinct Chambers, are fully stated in the enclosed Despatch. And it appears to me that there is no sufficient Reason for departing from the same Form of Constitution in those Colonies to which Representative Governments will be now for the first Time extended. It is unnecessary to recapitulate those farther Points, which you will find sufficiently noticed in the Despatch in question.

You will observe that the most material Suggestion made by yourself in conformity with the Report of your Executive Council, in your Despatch No. 122, of 2d October 1847, has been followed; and the other Recommendations of your Council will receive full Attention.

I have, &c.
(Signed) GREY.

No. 7.
Earl Grey to the Lieut.-Governor of Western Australia, 3d August 1848.

31st July. No. 133, p. 45.

No. 7.

(No. 26.)

COPY of a DESPATCH from Earl GREY to the Lieutenant Governor of WESTERN AUSTRALIA.

Sir, Downing Street, 3d August 1848.

I TRANSMIT to you herewith, for your Information and Guidance, a Copy of a Despatch which I have addressed to the Governor of New South Wales, explaining the Principles of the Measure which Her Majesty's Government propose to introduce at as early a Period as may be practicable of the next Session of Parliament, and which, while it would effect the Separation of the District of Port Phillip from the Colony of New South Wales, and its Formation into a separate Government, would at the same Time provide for introducing the Principle of Popular Representation into the Governments of Van Diemen's Land and of South Australia, by the Addition of Elective Members to their Legislative Councils, bearing the same Proportion to those nominated by the Crown as that which is now established in New South Wales. The Motives which have influenced Her Majesty's Government in thus designing to maintain in New South Wales and Port Phillip the Form of Legislature now existing in the former Colony, instead of creating Two distinct Chambers, are fully stated in the enclosed Despatch. And it appears to me that there is no sufficient Reason for departing from the same Form of Constitution in those Colonies to which Representative Government will be now for the first Time extended. It is unnecessary to recapitulate those farther Points, which you will find sufficiently noticed in the Despatch in question.

It is proposed that by the same Measure the Legislative Council of Western Australia shall be empowered to pass an Ordinance, adding Elective Members in the same Proportion to its own Numbers, whenever the Inhabitants shall, by Petition, have declared themselves generally favourable to such a Change, and prepared, for the sake of obtaining it, to take upon themselves that Part of the Charge for the Civil Government of the Colony which is now met by the annual Grants of Parliament.

I have, &c.
(Signed) GREY.

NEW SOUTH WALES.

COPIES OR EXTRACTS

OF

DESPATCHES

BETWEEN THE

COLONIAL DEPARTMENT AND THE GOVERNOR OF NEW SOUTH WALES

RELATING TO THE

PROPOSED CHANGES IN THE CONSTITUTION OF AUSTRALIA.

Ordered to be printed 25th May 1849.

NEW SOUTH WALES.

RETURN to an Address of the Honourable The House of Commons, dated 7 March 1851;—*for*,

"COPIES or EXTRACTS of DESPATCHES between the Secretary of State for the Colonies and the Governor of *New South Wales*, relating to the REDUCTION of TROOPS."

Colonial Office, Downing-street, 13 March 1851.

B. HAWES.

(Sir William Molesworth.)

Ordered, by The House of Commons, *to be Printed*, 17 *March* 1851.

DESPATCHES FROM GOVERNOR SIR C. A. FITZROY - - - p. 1

DESPATCHES FROM THE RIGHT HONOURABLE EARL GREY, SECRETARY OF STATE - - - - - - - - - - p. 9

SCHEDULE.

DESPATCHES FROM GOVERNOR SIR C. A. FITZROY.

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COPIES OR EXTRACTS of DESPATCHES between the Secretary of State for the Colonies and the Governor of *New South Wales*, relating to the REDUCTION of TROOPS.

Despatches from Governor Sir C. A. FitzRoy.

— No. 1. —

(No. 100.)

COPY of a DESPATCH from Governor Sir *C. A. FitzRoy* to Earl *Grey*.

No. 1. Governor Sir C. A. FitzRoy to Earl Grey, 30 April 1847.

Government-House, Sydney,
30 April 1847.
(Received, 28 September 1847.)

My Lord, (Answered, 19 October 1847, No. 7, page 10.)

I HAVE the honour to acknowledge the receipt of your Lordship's despatches, Military, Nos. 2 and 3*, of the 24th and 30th November, communicating to me the determination of Her Majesty's Government to increase the military force in New Zealand with the least possible delay, and instructing me to make immediate arrangements with the Officer Commanding the Troops in this colony for sending the whole of the disposable force now serving here, to Wellington, with the utmost practicable despatch.

With reference to these instructions, I beg to transmit copies of communications which have passed between Lieutenant-general Sir Maurice O'Connell and myself on the subject, by which your Lordship will perceive that the Lieutenant-general proposes, as soon as transport can be procured, to send the whole of the 58th Regiment now in this colony to New Zealand, retaining here the 99th Regiment.

8 April 1847.
14 April 1847.

This arrangement will increase the force in New Zealand to (including serjeants and drummers) 1,935 men of the regular troops, exclusive of artillery and marines; and will leave New South Wales with only 830 rank and file, or with serjeants and drummers, 887 men, a number that will not be more than sufficient for the duties which are absolutely required to be performed by the military. These duties will be, the protection of Sydney; the convict guards over the stockades at Blackheath and at Newcastle; a detachment at Melbourne, lately increased to 100 men on the earnest representation of Mr. La Trobe, and rendered necessary by the occasional religious riots between the lower orders of the Catholic and Protestant portion of that town; and another detachment at Moreton Bay, which it is advisable to keep there to prevent the aggressions of the blacks, who are numerous in that vicinity, and have on several occasions shown a disposition to hostility, which, I am of opinion, it is more desirable to keep in check by a small military force, than to run the chances of a collision between these people and the settlers, and the consequent retaliatory proceedings which would ensue.

The detachments hitherto stationed at Bathurst and Port Macquarie, have been directed to be immediately withdrawn, that at the latter station being no longer required, as the convict establishment there has been broken up.

In case your Lordship should desire an explanation of my reasons for considering the presence of a military force of not less than 600 men in Sydney and its immediate vicinity to be indispensable, I beg to observe, that this number will

* Despatch No. 3, of 30th November, simply transmits copy of a Treasury Minute on arrangements of detail of the Commissariat service.

will not be more than sufficient to furnish the necessary guards over the Commissariat and Treasury, and those over the convicts in the Woolloomolloo Stockade and at Cockatoo Island, and the magazine on Goat Island. Moreover, although the lower classes in Sydney are generally well-behaved and orderly, yet your Lordship must be aware that there are many desperate ruffians among its population, and I am much disposed to believe the knowledge that there is a strong military force at hand, has much to do with the preservation of the public peace. I am informed that on more than one occasion mobs of the most turbulent character have assembled, which it has been totally beyond the power of the local police to overawe, and nothing but the influence of the military has dispersed.

I believe that there is every disposition on the part of the Legislative Council to maintain a respectable police force in Sydney and throughout the colony; but unfortunately the present high price of labour renders this impracticable.

When men of the class from which such a force would be formed can obtain high wages as labourers or mechanics, leaving them a considerable portion of their time at their own disposal, it is not to be expected that they will enter a service which is irksome in its duties, and which subjects them to the restraint of discipline; therefore the Sydney police, although adequate to the ordinary duties required of it, is not, and cannot be made, as efficient as it ought to be.

I may mention incidentally, that such is the demand for labour, that no soldier stationed in this colony finds the slightest difficulty in obtaining a loan of money for the purpose of purchasing his discharge; this practice has been carried to such an extent as to cause serious inconvenience to the service, and complaints on the part of commanding officers of regiments.

It is right that I should also mention, that exclusive of the specie in the Colonial Treasury and the Military Chest, I am credibly informed that there are nearly 700,000 *l.* in specie in the different banks in Sydney; and I need not point out to your Lordship the inducement that the knowledge of this fact would be for plunder, should the mob of Sydney ever get beyond the control of the executive power.

Under these circumstances, I trust your Lordship will believe that I have not wished to retain a larger force in this colony than is imperatively necessary.

I have, &c.

(signed) *Chas. A. FitzRoy.*

Enclosure 1, in No. 1.

Encl. 1, in No. 1. Copy of a Letter from Major-General Sir *M. C. O'Connell* to Governor Sir *C. FitzRoy.*

Sir, Head Quarters, Sydney, 8 April 1847.

I have the honour to submit, for the consideration of your Excellency, copies of the orders I have received from the Horse Guards, to increase the force at New Zealand to 2,000 men, from the corps stationed in this colony; and to state that, to carry this order into effect, it will be necessary to detach the whole of the 58th Regiment to that colony.

A state of the 99th Regiment, the only corps that will remain in New South Wales after the departure of the 58th Regiment, is herewith enclosed, and I request to have your Excellency's opinion, whether you consider this force sufficient for the service of Sydney, and of the few out-stations where your Excellency may desire to have small detachments stationed.

I have, &c.

(signed) *M. C. O'Connell,*
Lieutenant-General.

Sub-Enclosure

Sub-Enclosure to Enclosure 1, in No. 1.

RETURN showing the Number of Troops at present serving in the Colony of *New South Wales*, the Numbers on the Departure of the 58th Regiment for *New Zealand*, and on the Arrival of the Detachment of the 99th Regiment from that Colony and *North Australia*.

	Field Officers.	Captains.	Subalterns.	Staff.	Serjeants.	Drummers.	Rank and File.
Present force in New South Wales - -	5	11	23	8	65	27	1,102
58th Regiment, at present in New South Wales, to proceed to New Zealand -	3	6	11	4	35	14	564
Force in New South Wales on the departure of the 58th Regiment for New Zealand -	2	5	12	4	30	13	538
Detachment of the 99th Regiments now in New Zealand to return to New South Wales - - - - - - - - -	1	2	4	1	14	6	231
Detachment of the 99th Regiment now at North Australia to return to New South Wales - - - - - - - - -	–	1	1	–	4	–	60
Force in New South Wales on the Arrival of the Detachments of the 99th Regiment from New Zealand and North Australia - - - -	3	8	17	5	48	19	829

Head Quarters, Sydney,
9 April 1847.

Enclosure 2, in No. 1.

Copy of a Letter from Governor Sir *C. A. FitzRoy* to Lieutenant-General Sir *M. O'Connell*. Encl. 2, in No. 1.

Sir, Government House, Paramatta, 14 April 1847.

I have the honour to acknowledge the receipt of your Excellency's letter of the 8th instant, submitting for my consideration the orders you have received from the Horse Guards to increase the force at New Zealand to 2,000 men, together with the arrangements which your Excellency proposes for enabling you to carry these orders into effect.

In reply I beg to state, that according to the return enclosed in your Excellency's letter, it would appear that when the whole of the 99th Regiment is collected in this colony, its strength will amount to 829 rank and file. This force I am disposed to think will be sufficient for the service of Sydney and the few stations which it will be necessary to keep up, namely, Melbourne, the stockades at Blackheath and Newcastle, and Moreton Bay. The detachments at Bathurst and Port Macquarie can, without the slightest inconvenience, be forthwith dispensed with, as well perhaps as a portion of the detachment at Newcastle; but I consider that it is absolutely necessary (and I think your Excellency's experience will induce you to coincide with me in this opinion), that the force stationed at Sydney, or within easy march of it, should not be less than 600 rank and file. I therefore trust that your Excellency will not take measures for the departure of the 58th Regiment to New Zealand until the return of the detachment of the 99th from that colony and from North Australia.

The new settlement recently established in that portion of New Holland, your Excellency is doubtless aware, is to be immediately broken up.

I have, &c.
(signed) *C. A. FitzRoy*.

— No. 2. —

(No. 247.)

No. 2. Governor Sir C. A. FitzRoy to Earl Grey, 18 Dec. 1847.

COPY of a DESPATCH from Governor Sir *C. A. FitzRoy* to Earl *Grey*,

Government House, Sydney, 18 December 1847.

(Received 20 May 1848.)

My Lord, (Answered 1 June 1848, No. 16, page 11.)

* Page 1. ADVERTING to my despatches, No. 100 * of 30th April 1847, respecting the reduction in the military force of this colony, and No. 166 † of the 20th August last, bringing under your Lordship's notice the defenceless state of the harbour of Port Jackson, and in reference to the discontent which I informed your Lordship had been very loudly expressed by a majority of the members of the Legislative Council, when the determination of Her Majesty's Government to withdraw a portion of the troops was made known, I have the honour to transmit, for your Lordship's information, an extract from a report of a select committee of the Legislative Council in which the subject is introduced.

I have, &c.
(signed) *Charles A. FitzRoy.*

Enclosure in No. 2.

Encl. in No. 2. EXTRACT from the REPORT ‡ from the Select Committee of the Legislative Council of *New South Wales* on Police.—Session 1847.

WITHDRAWAL OF TROOPS.

THE Council having referred to your Committee the subject of the withdrawal of the troops from this colony to New Zealand, that they might consider the expediency of making an addition to the police force to secure the maintenance of internal order and tranquillity, they have taken some evidence upon the question with the view of obtaining suggestions respecting the formation of a militia or yeomanry corps.

The sudden withdrawal of the regular troops to New Zealand has, your committee are aware, occasioned very great dissatisfaction; because, with an entirely undefended harbour, and a reduced number of military, the colony may now be said to be without any protection from foreign aggression. Considering its origin, your committee think the colony has a claim upon the Home Government for keeping up a considerable number of troops here. To afford an unequal amount of protection to New Zealand, by depriving this colony of what it is fairly entitled to, must naturally create a sense of injustice, but at the same time your committee are not prepared to report that any immediate necessity does exist for the formation of a militia, though they think the question ought not to be lost sight of. The evidence of Colonel Despard, Mr. James M'Arthur, and the Honourable the Speaker, contains some valuable suggestions, which will be found useful when the necessity will arrive, as it may do at any time, and must do before long, for the establishment of a militia or yeomanry corps. Your committee are inclined to prefer the latter, as the least expensive and most suitable to the circumstances of the colony, without additional taxtion, the charge for such a corps cannot, however, be met in the present state of the finances.

— No. 3. —

(No. 227.)

No. 3. Governor Sir C. A. FitzRoy to Earl Grey. 7 November 1849.

EXTRACT of a DESPATCH from Governor Sir *C. A. FitzRoy* to Earl *Grey*.

Government House, Sydney, 7 November 1849.

(Received, 22 May 1850.)

(Answered, 21 June 1850, No. 39, page 13.)

24 Nov. 1846, p. 9.
19 Oct. 1847, p. 9.
4 March 1848, p. 10.
13 May 1848 ¶.
1 June 1848, p. 11.

"HAVING felt it my duty to bring under the consideration of my Executive Council your Lordship's several despatches relative to the defences of Port Jackson and the military force required for the protection of this colony, I have now the honour to transmit a copy of the result of our deliberations on these subjects,

† On the subject of the defences of Port Jackson.

‡ This voluminous Report of the Select Committee of Council on the subject of police, is omitted to be printed.

¶ This despatch refers to the defences of Port Jackson.

subjects, the evident importance of which will not, I am convinced, fail to secure your Lordship's serious attention. 24 Sept. 1849.

2. As I entirely and fully concur in the statements and opinions contained in the accompanying report of the proceedings of the Executive Council, which give a clear and ample explanation of the position of the colony, both with regard to its defenceless condition in the event of foreign aggression, and the impossibility of its at present undertaking, without some assistance, the erection of the permanent works required for the security of the harbour of Port Jackson, I earnestly recommend for your Lordship's favourable consideration the suggestion, that when a regiment can be spared from New Zealand it may be brought back to this colony, and be permitted to be employed in the construction of such works as are most urgently required; the men employed being paid by the colony at the usual rate of military working pay, for which payment it will of course be necessary to obtain the concurrence of the Legislative Council, should your Lordship's sanction to this proposal be obtained.

3. I would also beg to call your Lordship's particular attention to the opinion of the Executive Council with respect to the impracticability of at present forming a volunteer artillery corps, and the inexpediency of enrolling a militia force in Sydney, as suggested by your Lordship's despatch of the *4th March 1848 (Military), No. 11, and to the reasons assigned by the Council for having arrived at that conclusion.

* *See* page 10 of this Paper.

4. With regard to the enrolment of a militia, I would beg to add, that although there is doubtless a considerable number of respectable tradesmen in Sydney who might be enrolled and trained, andwhose services might be relied on, when required, in the maintenance of order and good government, yet the heterogeneous character of the great bulk of the mechanics and labourers who compose the rest of the population, would render it both unsafe and unwise to entrust them with arms, or to train them to their use, lest they should at any time be disposed to turn them to a bad account.

* * * * *

5. The foregoing reasons, I would submit, are, in addition to those adduced in the proceedings of the Council, equally conclusive against the further reduction of the military force now stationed in Sydney."

Enclosure in No. 3.

MINUTE of PROCEEDINGS on 24 September 1849, relative to the Military Defences of the City of *Sydney*. Enclosure in No 3.

EXTRACT from Minute No. 49, 1847; confirmed 1 October 1849.

Members present:—His Excellency the Governor, the Honourable the Commander of the Forces, the Honourable the Colonial Secretary, the Honourable the Attorney-General, the Honourable the Colonial Treasurer.

HAVING attentively considered the correspondence laid before them by his Excellency the Governor on the 20th August last, relative to the defences of Port Jackson, and the military force requisite for the protection of the colony, the Council submit the following remarks and suggestions, with a view to their being brought by his Excellency under the consideration of the Right Honourable the Secretary of State.

2. In the present disturbed state of the continent of Europe, the Council cannot be free from apprehension that circumstances may suddenly occur which will force upon Her Majesty's Government an interruption of the peace with foreign countries which the British empire has so long enjoyed. The Council therefore feel it their duty to avail themselves of the present opportunity to press upon the attention of Earl Grey the defenceless state of Port Jackson and the city of Sydney, and the dependence which the colonists must place upon the mother country for the protection against foreign aggression which they are not in a position to provide for themselves.

3. By the report of the commanding royal engineer, which was enclosed in the Governor's despatch to Earl Grey of the 20th August 1847,* the Council perceive that his Lordship is in possession of detailed information as to the utterly unprotected state of the port and city of Sydney as respects land defences. In order, however, to render the view of the case complete, the Council think it necessary to bring under his Lordship's notice the fact, that there is no British ship of war permanently stationed here, and that those which occasionally visit the port are engaged in refitting, and can scarcely therefore be regarded as being in an effective state during their stay. It must therefore be admitted that, as matters now stand, a small squadron, or even a single large frigate, might subject the citizens of Sydney to the alternative of a contribution to the extent of their means, or the sacrifice of their buildings and shipping.

* Page 9.

4. In his despatch dated the 19th October 1847,* No. 7, Earl Grey speaks of this colony as being peculiarly exempt from the danger of being attacked by a foreign enemy; and in the more recent despatch, dated 4th March 1848,† No. 11 (Military), his Lordship observes that the fortification of Halifax and Quebec at the cost of the mother country affords no precedent for an application being made to Parliament for a vote for the protection of Sydney, because those places are by their situation much more exposed to attack than any of the Australian cities. From these remarks the Council cannot but apprehend that the former representations which have been made on the subject have failed to bring distinctly under Earl Grey's notice the immediate danger to which Sydney would be exposed in the event of the nation becoming involved in war with any of the maritime powers. The Council therefore think it necessary to point out, that although from its remoteness from the probable centre of war Sydney is not likely to become the scene of any extensive naval or military operations, it is peculiarly exposed to the danger of predatory invasions by sea. There is now lying in the banks here coin to the amount of 637,000*l.*; which, with the other moveable articles of value contained in the city, and the shipping lying in the harbour, would afford amply sufficient temptation to induce a small naval force to attack Sydney, did its want of the means of defence afford a reasonable hope of success. France has now in these seas a fleet from which such a force could be detached, and America could furnish one with almost equal readiness. There is no difficulty of navigation which would oppose any obstacle to its entrance into the harbour, but with a fair wind it might at any time run up to an anchorage in the very heart, it may be said, of the city. And to prove the correctness of this representation, the Council have only to mention, that one morning in the year 1839 the citizens found lying in their harbour an American squadron which had come in without a pilot during the preceding night, and which, had its object been hostile, might have laid the city under contribution, and sailed off without any interruption whatever.

† Page 10.

5. The Council will not further dwell upon this subject, hoping that the above representations will be sufficient to satisfy Her Majesty's Government of the necessity for the prompt despatch of an adequate naval force to this port in the event of the nation becoming engaged in war with any of the maritime powers.

6. As respects the measures to be taken for commencing the permanent works required for the defence of the harbour, the Council have had considerable difficulty in arriving at any practical decision, as it is beyond doubt that the colony cannot at present undertake them without assistance, and it is on the other hand almost equally clear, from the decided terms of Earl Grey's despatches, that the cost of them cannot be defrayed out of home funds. It has, however, occurred to the Council that a portion of the military force which, as stated in Earl Grey's despatch of the 1st June 1848 ‡, No 16 (Military), was sent from this colony to New Zealand, only to meet a pressing emergency, might now be brought back for the express purpose of being employed in fatigue parties in the construction of the works in question under the superintendence of the officers of the Royal Engineers, whom Her Majesty's Government is prepared to employ on this service, as stated in Earl Grey's despatch of the 4th March 1848, No. 11 (Military). In this manner, without any increase of expense to the mother country, the colony would obtain the twofold advantage of a supply of labour and a low rate of payment for it, and it might thus be enabled to carry on a portion of the works which it could not otherwise possibly attempt, as all the convicts under sentence are required for the formation of the dry dock, and the employment of free labourers would entail an expense which the public revenue could not bear. The Council, therefore, recommend that his Excellency should strongly urge this recommendation on the favourable consideration of the Secretary of State, as the only means which they can suggest for the execution of the defences, which are so essential for the safety of the city.

‡ Page 11.

7. The arrangement now proposed to be submitted to the consideration of the Secretary of State cannot of course be carried out without the concurrence of the Legislative Council, who will be required to vote the sums necessary for the extra payment to the soldiers employed, and for the other expenses attendant on the work. The Council, however, do not recommend that any communication on the subject should be made to the Legislative Council until the decision of Her Majesty's Government on the proposal shall have been obtained.

8. In reference to Earl Grey's suggestion, that the want of an artillery force might be supplied by the organization of a volunteer corps in Sydney, the Council recommend that it should be explained to his Lordship, that such a measure would, under present circumstances,

stances, be impracticable. The Council can readily believe that a highly efficient artillery corps can be formed out of such a body of men as the labourers in Her Majesty's dockyards in England, with the advantages which they possess of having experienced officers to train them, and the use of the ordnance required for their exercise. Here, however, there is no similar body of men employed on public works, and the Council conceive that it would be impossible to compose an effective corps out of the labouring population of Sydney, even were it expedient so to do; and were there not the further obstacles of there being neither ordnance to exercise them with, nor officers to train them. The enrolment of a militia in Sydney is a measure which would in the Council's opinion be highly inexpedient and impolitic, considering the composition of the population, and the probability that those persons on whom the duty of serving in the militia would practically devolve, would belong principally to a class of the inhabitants whom it would not be desirable to embody in an armed corps. To the establishment of bodies of yeomanry in the country districts, the Council not only see no objection, but they are of opinion that such bodies would be exceedingly useful and effective, and that it would be desirable for the Government to encourage their formation.

9. The Council feel it their duty to avail themselves of this opportunity to advise that his Excellency should strongly point out to the Secretary of State that the military force stationed in Sydney cannot be further reduced, consistently with a due regard for the maintenance of the authority of Her Majesty's Government in this colony. It is not merely for the support of the police in cases of riot, or for the protection of the inhabitants against foreign invaders that Her Majesty's troops are required. They are necessary, in the opinion of the Council, to preserve to the executive and legislative authorities their proper independence of action, by affording them security in times of political excitement or pecuniary distress against the violent interference of such a mob as Sydney could produce, did circumstances encourage its organization.

(signed) *Francis L. S. Merewether,*
Clerk of the Council.

Sub-Enclosure 1, in Enclosure to No. 3.

1847.—NEW SOUTH WALES.

REDUCTION IN THE MILITARY FORCE.

Ordered, by the Council, to be Printed, 18 May 1847.

Charles A. FitzRoy, Governor. Message No. 6.

THE Governor submits to the Legislative Council the copy of a despatch which he has recently received from Her Majesty's Secretary of State for the Colonies, on the subject of the reduction which Her Majesty's Government has determined to make in the military force in this colony.

The Council will perceive that his Excellency is directed to bring under their immediate consideration the expediency of providing for the maintenance of the internal order and tranquillity of the colony, by an adequate force of police, or, if necessary, militia.

As, however, his Excellency is of opinion that the dispersed state of the population in the country districts of this colony would not admit of an effective militia force being raised in it, it is not his intention to cause any measure for establishing such a force to be laid before the Council, but he requests the Council to consider whether the circumstances of the colony will admit of such an addition to the police force as will be sufficient to secure the maintenance of order, and the due enforcement of the law.

With a view to facilitate the deliberations of the Council on this important subject, his Excellency accompanies this message with a return, showing the strength and distribution of the military force which it is proposed to retain in the colony.

Government House, Sydney,
18 May 1847.

[Then follows a copy of Earl Grey's Despatch, No. 2 (Military), 24th December 1846, as printed at page 9.]

(RETURN referred to in Message No. 6.)

PROPOSED DISTRIBUTION of the TROOPS in *New South Wales*, after the Departure of the 58th Regiment for *New Zealand*.

DISTRIBUTION.	Field Officers.	Captains.	Subalterns.	Staff.	Serjeants.	Drummers.	Rank and File.
Sydney	3	3	11	5	32	15	501
Parramatta	–	1	1	–	4	1	75
Port Phillip	–	1	1	–	4	1	80
Moreton Bay	–	–	1	–	2	–	50
Blackheath	–	1	–	–	2	–	46
Newcastle	–	1	–	–	3	1	65
Detached	–	2	3	–	–	–	5
TOTAL Effectives	3	9	17	5	47	18	822

Note.—The above will be the strength of the 99th Regiment after the return from New Zealand, of a detachment of that corps, consisting of 150 non-commissioned officers and men.

(signed) *G. C. Mundy*, Lt.-Col., D. A. G.

Sub-Enclosure 2, in Enclosure to No. 3.

1848.—NEW SOUTH WALES.

REDUCTION IN THE MILITARY FORCE.

Ordered, by the Council, to be Printed, 28 March 1848.

Charles A. FitzRoy, Governor. Message No. 10.

THE Governor submits, for the consideration of the Legislative Council, the copy of a despatch from the Right Honourable Her Majesty's Secretary of State for the Colonies, intimating the early prospect of a reduction in the number of the military force now stationed in the colony, and directing his Excellency to draw the attention of the Council to the expediency of augmenting the police force of the colony, by causing men to be engaged for that purpose in England.

Government House, Sydney,
28 March 1848.

[Then follows the copy of Earl Grey's despatch, No 7, dated 19th October 1847, as printed at page 9].

Despatches from the Right Honourable Earl Grey, Secretary of State.

— No. 1. —

(No. 2.)

No. 1.
Earl Grey to Governor Sir C. A. FitzRoy, 24 Nov. 1846.

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy.*

Sir, Downing-street, 24 November 1846.

I HAVE the honour to inform you that in consequence of the information recently received from New Zealand, Her Majesty's servants have determined that an increase of the military force now in that colony should be effected with the least possible delay. With that view, I have to instruct you to make immediate arrangements in concert with the officer commanding the troops in New South Wales, for sending the whole of the disposable force now serving there to Wellington, with the utmost practicable despatch. It will, I calculate, be in your power, without danger, to send at least 900 men for this service, still retaining a small force at Sydney, which, under the present circumstances of New South Wales, is all that I consider indispensable. New South Wales may be regarded as being perfectly safe, for the present at least, from any attack from a foreign enemy; there are no native tribes capable of engaging in serious hostilities with the colonists; and the convict establishment is now reduced so low, while so great an increase has taken place in the numbers of the free population, that there is no longer the necessity which some years ago existed for maintaining a considerable military force to guard against the risk of an attempt to rise on the part of the convicts. Under these circumstances there is no part of Her Majesty's dominions in which there is less occasion for a large body of troops. Accordingly I find that, with the exception of those at Sydney, the troops now serving in New South Wales are broken up into small detachments, and obviously performing duties more analogous to those of a police corps than of a part of Her Majesty's regular army. But these are duties which the heavy demands upon the services of the British army do not admit that it should be called upon any longer to undertake. Her Majesty's confidential servants will consider it their duty to take care that the naval and military forces shall afford efficient protection from the attacks of any foreign enemy to so important a part of Her dominions as New South Wales; but for the maintenance of internal order and tranquillity it is only reasonable that the colonists should themselves be called upon to provide, by the formation of an adequate force of police; or, if necessary, of militia. You will bring this subject under the immediate consideration of the Legislative Council; and under no circumstances will you consider yourself authorized to delay sending to New Zealand the force I have already named.

I do not propose that for the present there should be any alteration in the amount of force in Van Diemen's Land, including Norfolk Island, or in Southern or Western Australia; nor is the arrangement for sending the 96th Regiment to India to be disturbed.

I have, &c.
(signed) *Grey.*

— No. 2. —

(No. 7.)

No. 2.
Earl Grey to Governor Sir C. A. FitzRoy, 19 October 1847.

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy.*

Sir, Downing-street, 19 October 1847.

I HAVE to acknowledge the receipt of your despatch, No. 100,* of the 30th April last, with its enclosures, reporting the steps proposed to be taken by the Lieutenant-general commanding Her Majesty's troops in the Australian settle-

* Page 1.

* Page 9.

ments, in obedience to my instructions to yourself of the 24th November * last, for increasing the force in New Zealand, and by the reduction of that in New South Wales, and also pointing out the difficulty which exists in organizing an efficient police corps for the last named colony.

Although the force which you propose to retain in New South Wales is somewhat larger in amount than I have directed you to keep there, it is not my intention to withhold my approval from this arrangement as one of a temporary nature. Viewed in this light, I see no sufficient reason for objecting to the arrangement, because the force which it provided for New Zealand will be raised nearly to the amount that was intended, while the restoration of tranquillity in that colony has greatly diminished the want of troops which seemed to exist there when I addressed to you my despatch above referred to. At the time the arrangements which you now report were adopted, there was a further reason for departing in some degree from those which had been directed, in consequence of the demands which still continued on the services of the troops in New South Wales to keep the convicts in subjection. This demand will, however, now cease, as orders have been given for breaking up the convict establishment in that colony. Hence, and taking also into consideration the fact that this colony is peculiarly exempt from the danger of being attacked by a foreign enemy, I am of opinion that the amount to which I last year directed that the garrison of New South Wales should be reduced will ultimately be amply sufficient; and I cannot, accordingly, hold out to you the expectation that so considerable a force as that to which you refer will long continue to be kept there, merely for the purpose of supporting the police in the maintenance of order, this being a service for which the colony must provide. You will do well, therefore, to bring under the consideration of the Legislative Council of your Government the propriety of taking early measures to increase the police, so as to be prepared for the further reduction in the number of regular troops maintained in the colony, which will probably be effected at a very early period. In taking any measures for this purpose, you will suggest to the Legislative Council that it deserves to be considered whether the difficulty which is described to exist in obtaining the services of an adequate number of effective policemen might not be met by causing men to be engaged for this purpose in England. I have no doubt that men well fitted for the duty might easily be engaged here under a stipulation to serve for seven or ten years for reasonable wages; and in order to secure their performance of the agreement, some bonus should be held out to them on the completion of their term of service, while, on the other hand, in the event of their either leaving the service voluntarily or being dismissed for misconduct before the expiration of the stipulated period, they should be made subject to a penalty equal to the probable cost of their conveyance to the colony, for the recovery of which stringent and summary powers should be given to the Governor by the Act authorizing the measure.

I have, &c.
(signed) *Grey.*

— No. 3. —

No. 3.
Earl Grey to Governor Sir C. A. FitzRoy, 4 March 1848.

(No. 11.)

Copy of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy.*

Sir, Downing-street, 4 March 1848.

I have to acknowledge the receipt of your despatch, No. 166, of the 20th August last, with the copy therein enclosed of a report from the Commanding Royal Engineer in New South Wales, relating to the defences of Port Jackson.

I cannot coincide in the opinion which you inform me exists in New South Wales, that the circumstance that Halifax and Quebec have been forfeited at the cost of this country, affords a precedent for an application being made to Parliament for a vote for the protection of Sydney. The situation of those places, by which they are so much more exposed to attack than any of the Australian cities, affords a sufficient reason for the expense incurred for their defence. You will inform the Legislative Council that, while the right of the Australian colonies to look for their fair share of that protection which it is the object of Her Majesty's naval and military forces to extend to all parts of the British Empire

is

is fully recognized by Her Majesty's servants, they are of opinion that these colonies have now made so much progress in wealth and population, that their inhabitants may reasonably be expected to bear also a part of the heavy charges which, with a view to that protection, are imposed upon their fellow-subjects residing in the United Kingdom; and that the smallest contribution towards these charges which ought now to be required from the colonists is that of providing any additional means of local defence which may be required. I can therefore hold out no expectation whatever to the Legislative Council of New South Wales, that Her Majesty's Government will be able to render any assistance towards the erection of the works which have been suggested at Sydney, unless they think proper to vote the requisite funds for their construction, and, on that condition, Her Majesty's Government will be happy to direct the Board of Ordnance to appoint officers to plan and execute the works.

With regard to the want of an artillery force in New South Wales, adverted to by the commanding royal engineer, I have to observe that as a force of this description would only be required in the very improbable event of an attempted invasion, this danger might be met at a very moderate expense by forming in Sydney a volunteer artillery corps. If some of the principal gentlemen would exert themselves in forming such a corps I should approve of your granting them commissions. It has been found in this country that without interfering materially with their ordinary avocations, the workmen employed in our dockyards can, by devoting to this object a few hours in the week, be trained so as to form a very effective force, both of artillery and of infantry. Similar corps might be formed at Sydney and Melbourne, composed of the labouring population of these towns, and officered by the inhabitants of higher station. The only expense for which the Legislative Council would be called upon to provide would be that of uniforms for the men, and pay during the hours of training. I send you herewith, in order to assist you in the consideration of the question whether a measure of the nature above adverted to might not be adopted with advantage, a copy of the regulations respecting the dockyard battalions.

I cannot conclude this despatch without expressing my confidence that the inhabitants of New South Wales have too much of the spirit which has always distinguished the British nation, to be slow in coming forward to answer this invitation to organize themselves for their own defence.

I have, &c.
(signed) *Grey*.

— No. 4. —

(No. 16.)

No. 4. Earl Grey to Governor Sir C. A. FitzRoy, 1 June 1848.

EXTRACT of a DESPATCH from Earl *Grey* to Sir *C. A. FitzRoy*; dated Downing-street, 1 June 1848.

"I HAVE to acknowledge the receipt of your despatch, No. 247*, of the 18th December, with the copies therein enclosed, of a report, with its annexures, of a select committee of the Legislative Council of New South Wales, relative to the question as to the expediency of making some addition to the police force, in consequence of the reduction in the numbers of the troops stationed in that colony.

* Page 4.

"My despatch, No. 11†, Military, of the 4th March last, will have apprised you of the views which Her Majesty's Government entertain on the subject of the military defence of the colony under your government. I cannot, however, assent to the remarks which have been made by the committee that Her Majesty's Government have afforded protection to New Zealand by depriving New South Wales of the amount of protection to which it is fairly entitled. The force which was withdrawn from New South Wales was sent to New Zealand only to meet a pressing emergency, and Her Majesty's Government do not contemplate the permanent maintenance of a large regular force in the latter, any more than in the former colony."

† Page 10.

— No. 5. —

(No. 30.)

No. 5. Earl Grey to Governor Sir C. A. FitzRoy, 21 Nov. 1849.

Copy of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy*.

Sir, Downing-street, 21 November 1849.

In my despatch of the 24th of November 1846,* No. 2, Military, I instructed you to make immediate arrangements in concert with the officer commanding the troops in New South Wales, for sending the whole of the disposable force now serving there to Wellington, with the utmost practicable despatch. I calculated that it would be in your power, without danger, to send at least 900 men for this service, still retaining a small force at Sydney, which, under the circumstances of New South Wales at that time, was all that I considered indispensable. I was of opinion that New South Wales might be regarded as being perfectly safe from any attack from a foreign enemy, there being no native tribes capable of engaging in serious hostilities with the colonists, and the convict establishment having been reduced so low, while so great an increase has taken place in the numbers of the free population, that there was no longer the necessity which some years ago existed for maintaining a considerable military force to guard against the risk of an attempt to rise on the part of the convicts; and that under these circumstances, there was no part of Her Majesty's dominions in which there was less occasion for a large body of troops. I found that with the exception of those at Sydney, the troops serving in New South Wales were broken up into small detachments, and were obviously performing duties more analogous to those of a police corps than of a part of Her Majesty's regular army. I considered that these were duties which the heavy demands upon the services of the British army did not admit that it should be called upon any longer to undertake. I informed you that Her Majesty's confidential servants would consider it their duty to take care that Her naval and military forces should afford efficient protection from the attack of any foreign enemy to so important a part of Her dominions as New South Wales, but that for the maintenance of internal order and tranquillity, it was only reasonable that the colonists should themselves be called upon to provide, by the formation of an adequate force of police, or, if necessary, of militia. I instructed you to bring this subject under the immediate consideration of the Legislative Council, and under no circumstances to consider yourself authorized to delay sending to New Zealand the force I had named.

* Page 9.

In my despatch of the 4th March 1848,† No. 11, Military, I instructed you to inform the Legislative Council of New South Wales, that while the right of the Australian colonies to look for their fair share of that protection which it is the object of Her Majesty's naval and military forces to extend to all parts of the British empire was fully recognised by Her Majesty's servants, they were of opinion that these colonies have made so much progress in wealth and population, that their inhabitants might reasonably be expected to bear also a part of the heavy charges which, with a view to that protection, are imposed upon their fellow subjects residing in the United Kingdom, and that the smallest contribution towards these charges, which ought now to be required from the colonists, was that of providing any additional means of local defence which might be required; and I suggested to you the propriety of inviting the principal gentlemen of the colony to exert themselves in forming a volunteer artillery force.

† Page 10.

In my despatch of the 1st of June following, No. 16,‡ Military, after noticing the report of the committee of the Legislative Council of New South Wales, on the question how far it might be expedient to make some addition to the police, in consequence of the withdrawal of a portion of the troops, I explained that the force so withdrawn was sent to New Zealand to meet a pressing emergency; and I stated that Her Majesty's Government did not contemplate the permanent maintenance of a large regular force in that colony, any more than in New South Wales.

‡ Page 11.

These communications will have fully prepared you for the reduction which Her Majesty's Government find it absolutely necessary to make of the military expenditure of the Australian colonies, and I have accordingly to acquaint you that Her Majesty's Government propose to transfer to the colony of New South Wales, the barracks, and all military buildings and lands not immediately required

required for the preservation of stores, and that the charge of providing, maintaining, and repairing quarters for Her Majesty's troops in New South Wales, must in future be undertaken by the colony, and that the force to be retained there, will be reduced to a guard in the capital of the colony, and in the town of Melbourne, which will be the capital of the proposed province of Victoria. If a greater amount of force is required, the Local Legislature must either make provision for raising a more considerable body of police than is now maintained, or some other description of local force, or else provide for the pay and allowances of an additional number of Her Majesty's regular army, in which case there would be no objection to allow additional regiments to serve there.

In adopting the policy which I am thus called upon to prescribe to you for your future guidance, Her Majesty's Government are swayed by the consideration that New South Wales already possesses representative institutions, that these will, it cannot be doubted, very speedily be extended to the other Australian colonies, and that all the restrictions heretofore imposed on colonial trade by imperial legislation, have now been removed.

It is my duty to apprise you, that if the Colonial Legislature should not think proper to make adequate provision for the maintenance of the necessary barracks in a manner in which the health and comfort of the troops will be as well secured as at present, it will be incumbent on Her Majesty's Government to remove them altogether.

I have only further to acquaint you, that in giving to the colony the barracks and other buildings which are to be transferred to it under the present instructions, it must be distinctly understood that Her Majesty's Government reserve to themselves the right of resuming possession, if at any future time it should in their judgment become necessary to do so; some nominal rent must therefore be reserved as a recognition of the title of the Crown to the property.

You will take an early opportunity of reporting to me the arrangements which you shall make in pursuance of the present instruction.

I have, &c.
(signed) *Grey.*

— No. 6. —

(No. 39.)

No. 6.
Earl Grey to Governor Sir C. A. FitzRoy.
21 June 1850.

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy.*

Sir, Downing-street, 21 June 1850.

I HAVE the honour to acknowledge the receipt of your despatch, Military, No. 227,* of the 7th of November last, with the minute therein enclosed, of the deliberations of the Executive Council of New South Wales, on the defenceless state of Port Jackson.

* Page 4.

Having attentively considered that minute, I am compelled to state, that so far from finding any reason for altering my previous view of the subject, I conceive that the facts which are set out in it are calculated to confirm that view. I have no doubt that prudence does prescribe the erection of works sufficient to protect the city of Sydney from a predatory attack; but the great value of the property it contains, and the wealth and prosperity evinced by the very large sums of money stated to be in the banks, afford proof no less of the ability of the colony to meet the expense of providing such protection, than of the necessity of doing so.

On this subject I have to remind you, that many of the great commercial cities of this country are even now not less open than Sydney to predatory attacks, while some even of our arsenals and important military stations are as yet but very imperfectly protected; and it is altogether unreasonable to suppose that Parliament could be asked to vote money from the revenue of the United Kingdom for the defence of Sydney, while there is still a want of similar works at home, more especially as it must be borne in mind how much more lightly the inhabitants of New South Wales are taxed than those of Her Majesty's subjects who remain in this country.

Her Majesty's servants are prepared to take measures for affording to the inhabitants of the colonies their fair share of protection as a portion of the British

empire. Any attack made upon New South Wales, or any injury to any inhabitant of the colony, would be resented in the same manner as an attack upon any other part of Her Majesty's dominions, or an injury to any other of Her Majesty's subjects. But while we admit this as the rule to be observed, we consider that Her Majesty's subjects inhabiting the colonies must take their fair share with their fellow subjects at home in bearing the common burthen of providing for the safety of the empire as a whole, and that the smallest contribution which they can be expected to make towards this object is that of undertaking the local expenses which are required.

It appears to have escaped the notice of yourself and of the Executive Council, that in the earlier days of British colonization the colonists were left to depend in a far greater degree than at present on their exertions. The inhabitants of what are now the United States of America were left, up to the time of the separation, with exceedingly little assistance from the mother country to defend themselves from the numerous and warlike tribes of Indians by whom they were surrounded; nay, even during war with France, a large part of the burthen of maintaining the arduous contest with that powerful monarchy with its Indian allies, fell upon the British American provinces, and not upon the mother country. At the present time the Legislature of Jamaica has the entire charge of the fortifications of the island.

New South Wales has now advanced so far in wealth and population, that without further aid from the mother country than you will have learned from my recent despatches it is intended to afford, the colony is well able to do what is necessary in order to provide for its own defence.

At the same time Her Majesty's Government will be glad to afford such assistance as can be given with justice to the rest of Her Majesty's subjects in carrying into effect such measures as the Colonial Legislature may consider expedient with a view to its defence. It is not possible to comply with the request that the troops lately sent to New Zealand should be brought back, because measures have already been taken for the reduction of the force in that colony; but if it should be considered desirable to execute any fortifications by military labour, Her Majesty's Government would willingly take steps for stationing an additional regiment in New South Wales, and also a detachment of sappers and miners, provided the Legislative Council would vote the amount required for their pay, including both their ordinary pay and the working pay to which they would be entitled. No charge would be made upon the colony for the conveyance of the troops there, nor on account of the claims to pensions which the soldiers would acquire during their stay in the colony; and further, whenever it became necessary to relieve a regiment so stationed in New South Wales, encouragement would be given to the soldiers belonging to it to take their discharge, thus effecting, without cost to the colony, a useful addition, not only to its population, but to its means of defence, as men so discharged could, under the existing regulations, be called upon to serve against an enemy in case of need. Her Majesty's Government would also willingly take measures for increasing the number of enrolled pensioners in the colony, if the Local Legislature would provide for the cost of conveying them there, and settling them in the situations where they might be most useful.

You will take an early opportunity of communicating these observations to the Executive Council; and you will concert with that body the course which it may be expedient to pursue with the view of bringing the subject under the consideration of the Legislative Council.

I have, &c.
(signed) *Grey.*

NEW SOUTH WALES.

COPIES or EXTRACTS of DESPATCHES between the Secretary of State for the Colonies and the Governor of *New South Wales*, relating to the REDUCTION of TROOPS.

(Sir William Molesworth.)

Ordered, by The House of Commons, *to be Printed*,
17 *March* 1851.

123.

Under 3 oz.

NEW SOUTH WALES, &c.

RETURN to an Address of the Honourable The House of Commons, dated 24 February 1853;—*for*,

"COPIES of the DESPATCH from Sir *John Pakington* to the Governors of *New South Wales*, *Victoria*, and *South Australia*, dated 15th December 1852, and his DESPATCH to the Lieutenant-Governor of *Van Diemen's Land*, dated 14th December 1852."

Colonial Office,
18 March 1853.

FREDERICK PEEL.

Ordered, by The House of Commons, *to be Printed*, 18 *March* 1853.

FOR Copy of Sir John Pakington's despatch to the Governors of New South Wales, Victoria, and South Australia, dated 15 December 1852, *see* Papers relative to the "Constitution of the Australian Colonies," presented to both Houses of Parliament by Her Majesty's command, March 1853.

For Copy of Sir John Pakington's despatch to the Lieutenant-Governor of Van Diemen's Land, dated 14 December 1852, *see* Papers relative to Convict Discipline and Transportation, presented to both Houses of Parliament by Her Majesty's command, December 1852.

and well-defined natural boundary of any county, hundred or parish, it shall be necessary to include therein a greater or smaller quantity of land than is hereinbefore mentioned, they the said Commissioners shall make such deviations from the prescribed dimensions of such county, hundred or parish as may be necessary for obtaining such natural boundary; provided that no such county, hundred or parish shall in any case exceed or fall short of the dimensions before prescribed to the extent of more than one-third part of such dimensions.

And it is Our pleasure that that part of Our said territory of New South Wales which hath hitherto been divided into counties shall be comprised in such new survey as aforesaid: Provided nevertheless, that in case it should appear to you, with the advice of Our said Executive Council, that such new division as aforesaid of such last-mentioned part of Our said territory into counties, hundreds and parishes is for any cause impracticable or inexpedient, you shall suspend the execution of these Our instructions in reference to that portion of Our said territory until you shall have communicated unto Us, through one of Our principal Secretaries of State, the nature of such obstacle, and shall have received Our further directions in relation thereto.

You are further to require the said Commissioners from time to time to make to you reports, setting forth the progress which they have made in the beforementioned survey of Our said territory, specifying therein the limits of each county, hundred and parish which they have surveyed and apportioned, and you are to require such Commissioners to annex to such their written reports, charts or maps of every such county, hundred and parish.

And in case the said Commissioners should not unanimously concur in making to you their report respecting the division of the said territory, you are to require the said Commissioners respectively to communicate to you the grounds and reasons of the different opinions which they may so entertain respecting any such question as aforesaid, and if upon a consideration of such reasons it should appear to you, with the advice of your said Executive Council, that the opinion of the majority of the said Commissioners is erroneous, you shall by an order to be made in Council require the said Commissioners to review such their report; and if the majority of such Commissioners should, after such review of such their report, adhere to their original judgment, so that you, acting with the advice of the said Executive Council, should ultimately differ in opinion from the said Commissioners, you shall suspend the ultimate decision upon any such question until you shall have transmitted to Us, through one of Our principal Secretaries of State, a full statement and explanation of the question in discussion, and until you shall have received Our further instructions for your guidance therein.

And it is Our pleasure that when any such report of the said Commissioners as aforesaid shall be finally approved by you, with the advice of your said Council, or by Us, as the case may be, the same shall be deposited among the records of the Supreme Court of New South Wales, and that an exact transcript thereof shall be deposited in the office of the Surveyor-general of Our said territory, and that another transcript thereof shall be transmitted to Us through one of Our principal Secretaries of State.

And for the better guidance of the said Commissioners in the execution of the duty so to be committed to them, you will, with the advice of the said Executive Council, issue to them such instructions as may from time to time become necessary, and you shall by a new commission or commissions, to be for that purpose issued in manner aforesaid, supply all such vacancies in the said commission as may from time to time arise by the death, resignation, absence or removal of any such Commissioner.

And it is Our will and pleasure, and We do hereby specially authorise and empower you, in Our name, from time to time to issue, under the public seal of Our said territory, letters patent for erecting into counties, hundreds and parishes such districts as may in manner aforesaid be selected for that purpose by the said Commissioners, in and by any reports so to be made by them, and approved by you or by Us as aforesaid, as the case may be; and all such letters patent so to be issued by you in Our name shall be enrolled among the records of the Supreme Court of New South Wales, and shall be on record, and the issuing of any such letters patent shall by you be made known to all Our loving subjects

subjects within Our said territory by proclamations to be by you from time to time published for that purpose in the most usual and public manner.

And We do further authorise and require you, in and by any such letters patent as aforesaid, in Our name and on Our behalf, to grant to Our loving subjects resident within any such county, hundred or parish all such franchises, immunities, rights and privileges whatsoever, as consistently with the circumstances, situation, laws and usages of Our colony of New South Wales may be properly granted to such Our loving subjects in that behalf: Provided that such franchises, immunities, rights and privileges shall, as far as the circumstances of the said colony may admit, be such as are, and of right may be claimed, held, enjoyed and exercised by Our subjects inhabiting and residing in any county, hundred or parish in that part of Our United Kingdom of Great Britain and Ireland called England, and not otherwise.

And it is Our will, and We do further require that such division as aforesaid of Our said territory into counties, hundreds and parishes shall not for the present be extended into such districts of Our said territory as lie beyond the range of any actual settlements, but that such divisions as aforesaid shall from time to time be extended into the parts thereof which are at present unsettled as the cultivation of Our said territory may progressively advance, so that in all future times all persons intending to settle in Our said territory may know in what county, hundred and parish any particular lands are included.

And it is Our pleasure, and We do hereby direct that the Commissioners so to be appointed as aforesaid for the division of Our said territory into counties, hundreds and parishes shall also be required and authorised to make a valuation of all the waste and unoccupied lands comprised in every such county, hundred and parish, and for that purpose it is our pleasure that the said Commissioners shall ascertain the average value of the lands in each parish separately, taking into their consideration the fertility, and all other natural, accidental or local advantages or disadvantages of the land in each parish as a basis for calculating the value thereof; and in making such their valuation, it is Our pleasure that the said Commissioners shall inquire what sum of money might reasonably be expected to be paid for any such lands if sold for a price to be paid in ready money at the time of the conveyance, in tracts containing three square miles, or 1,920 acres each, to be held in free and common soccage in fee-simple, without the payment of any quit-rent or duty for or in respect of the same.

And it is Our pleasure that the said Commissioners shall make to you reports of the progress of such their valuation, in the same manner and subject to the same rules and conditions as is hereinbefore provided in respect to the reports so directed as aforesaid to be made of the survey and division of the said territory into counties, hundreds and parishes; and such and the same proceedings shall be had and taken upon and in respect to the reports so to be made as aforesaid of the value of the said lands as are before directed to be had and taken in respect to the reports to be made of the survey and division of the said territory.

And it is Our pleasure, and We do further direct you to require and authorise the before-mentioned Commissioners further to report to you what particular lands it may be proper to reserve in each county, hundred and parish so to be surveyed and valued by them as aforesaid, for public roads and other internal communications, whether by land or water, or as the sites of towns, villages, churches, school-houses or parsonage houses, or as places for the interment of the dead, or as places for the future extension of any existing towns or villages, or as places fit to be set apart for the recreation and amusement of the inhabitants of any town or village, or for promoting the health of such inhabitants, or as the sites of quays or landing-places which it may at any future time be expedient to erect, form or establish on the sea-coast, or in the neighbourhood of navigable streams, or which it may be desirable to reserve for any other purpose of public convenience, utility, health or enjoyment; and you are specially to require the said Commissioners to specify in their reports, and to distinguish in the charts or maps to be subjoined to those reports, such tracts, pieces or parcels of land in each county, hundred and parish within Our said territory, as may appear to them best adapted to answer and promote the several public purposes before mentioned.

mentioned. And it is Our will, and we do strictly enjoin and require you, tha you do not on any account or on any pretence whatsover grant, convey or demise to any person or persons any of the lands so specified as fit to be reserved as aforesaid, nor permit or suffer any such lands to be occupied by any private person for any private purposes.

And whereas it is necessary that effectual provision should be made for the establishment and support within Our said territory of the Protestant reformed religion as by law established in England and Ireland, and for the education of youth in the discipline and according to the principles of the United Church of England and Ireland, and we have for that purpose thought fit that such part as hereinafter mentioned of the waste and unoccupied lands within Our said territory and its dependencies should be appropriated and set apart, and should be placed under the control and superintendence of one body politic and corporate, to be established within the said territory by letters patent, to be for that purpose issued under the public seal of New South Wales: Now We do hereby require and enjoin you when and so soon as such body politic and corporate shall have been erected and established, in pursuance of certain additional instructions herewith given or hereafter to be given to you, to make to the said corporation such grants of land within our said colony of New South Wales as hereinafter mentioned.

And for the purpose last aforesaid it is Our pleasure, and We do hereby direct that you do require and authorise the before-mentioned Commissioners to mark out and set apart in each and every county, hundred, &c., into which they may from time to time divide the said territory, a tract of land comprising one-seventh part in extent and value of all the lands in each and every such county, to be thenceforward called and known by the name of the Clergy and School Estate of such county. And it is Our pleasure that every such clergy and school estate shall, as nearly as may be, lie in one continuous and unbroken tract; and that when it shall be impossible to select such a tract of land for that purpose without serious injury or inconvenience to private settlers, then the said Commissioners shall be at liberty to allot such clergy and school estates in two or more continuous tracts in the same county, it being nevertheless Our will and pleasure that the clergy and school estates in each county shall not be interspersed with or divided by other lands, excepting only in such special cases as aforesaid.

And it is Our pleasure that the lands to be set apart in each county for the clergy and school estate thereof shall be of an average quality and value in reference to the general quality and value of the lands comprised in the said county, and that such situations shall be selected for this purpose as may afford to the said clergy and school estates a reasonable and equal share of every natural advantage of water carriage or internal communication which may be possessed by the lands in general throughout any such county; and you are to direct and require the before-mentioned Commissioners to make a special and distinct report to you in reference to each county to be erected in our said territory, pointing out with all possible precision the particular tracts of land appropriated for the clergy and school estates of such county.

And in case it shall not be possible to find in any of the counties which may be so erected as aforesaid a sufficient quantity of vacant and unoccupied land to make up the clergy and school estate of that county, then it is Our will that the deficiency be made up by an allotment of land to be taken out of the nearest adjacent county in which a sufficient quantity of ungranted land may be found for that purpose.

And it is Our pleasure that when and so soon as the said corporation shall have been erected and established, you do, in Our name, pass, under the public seal of New South Wales, grants to the said corporation and their successors of the clergy and school estates aforesaid, when and as they may be successively allotted and ascertained in the several counties of Our said territory by any reports from the said Commissioners, which shall be finally approved by you or by Us, as the case may be, to hold such lands to the said corporation and their successors in fee-simple, and in free and common soccage tenure.

And it is Our pleasure that all the waste and uncleared lands within Our said territory which shall remain after making such several reservations as before mentioned

mentioned for the public service, for the support of the clergy of the Established Church of England and Ireland, and for the education of youth, shall be granted, in Our name and on Our behalf, to private persons willing to effect settlements thereupon, and subject, nevertheless, to the several rules and conditions hereinafter particularly mentioned.

And We do require that, from time to time, and when and so soon as the said Commissioners shall have made any report which, being so approved as aforesaid, shall state the limits and the average value of the lands in any parish to be erected in Our said territory, you do, by proclamation in the public gazette of our said territory or otherwise, as may be most convenient, make known to all Our subjects what is the average price of lands in any such parish, to the intent that all persons may know the prices for which the same will be sold.

And you are to cause lists of all the parishes in which lands may remain for sale, with the average prices of such lands, to be publicly exhibited in the office of the Surveyor-general of New South Wales: and no such lands shall be sold or disposed of until the average price thereof hath been so published, and exhibited in the office of the said Surveyor-general during one calender month; and the highest offer which shall, during such month, be made for any such lands, shall be accepted, provided that such offer shall at least amount to the before-mentioned average price; and to secure uniformity in all applications to be made for the purchase of such lands, you are to cause printed forms of such applications to be prepared and delivered, at the office of the said Surveyor-general, to any person making application for the same, on payment of a fee of 2 *s.* 6 *d.*, and no more, and such applications shall be received in such written form as aforesaid, and in none other.

And in case any such lands as aforesaid shall continue unsold during a period of three years next after the average value thereof shall in manner aforesaid have been made publicly known, you shall be and are hereby authorised to accept the highest offer which shall be made for the same, although such offer may not amount to the average price fixed by such valuation as aforesaid; provided nevertheless, that in case you should be of opinion that such lands do not remain unsold by reason of the price being excessive, then and in every such case you shall and may suspend beyond the same period of three years the sale of such lands at any prices below the said average price.

Provided always, and it is Our will that in case you should see sufficient cause of a public nature for refusing any offer made by any particular individual for the purchase of any particular lands, you shall be at liberty to decline accepting such offer, although the price offered may be the best and highest offer received for the same, it being nevertheless Our pleasure that the best and highest offer is in all cases to be accepted, unless the objection to the persom making such offer should be of the clearest and most decisive nature.

And it is Our pleasure that all grants of land to be made by you in Our name to any person or persons in consideration of the payment of money for the same, shall be made to such person or persons, and his, her or their heirs and assigns, to be by him, her and them held in free and common soccage, yielding and paying to Us, Our heirs and successors, a quit-rent of one peppercorn by the year for the same, and every such grant shall pass in Our name under the public seal of New South Wales, and shall be executed and delivered to the purchaser or purchasers at the office of the Colonial Secretary of Our said Colony, on the payment of the purchase-money for the same, or on the payment of the last instalment of such purchase-money, as the case may be, and not before; and for the delivery of every such grant, and the preparing the same, the said Colonial Secretary shall be entitled to charge a fee amounting to 40*s.* sterling money, and no more, or of such smaller amount as you from time to time, with the advice of the Executive Council of New South Wales, shall appoint; and every such grant shall previously to its being so delivered be enrolled in the Supreme Court of New South Wales, and for making every such enrolment, the Registrar of such court shall be entitled to receive from such grantees or grantee a fee of 5*s.* sterling money, and no more.

And We do further authorise you to allow a discount of 10 *l.* per cent., on the immediate payment of the price of any such lands; that is to say, on payment

of such price into Our treasury of Our said colony in gold and silver money, within one calendar month next after the offer of the purchaser or purchasers shall have been accepted, and in all other cases such fine shall be paid and made payable by four equal instalments on the four most usual days of payment in the year.

And it is Our will that such lands as aforesaid shall be put up to sale in lots, comprising 1,920 acres, as nearly as may be; and to prevent uncertainty and confusion respecting the lots of land thus offered for sale, you are to require the before-mentioned Commissioners of Survey and Valuation to prepare charts of each parish, with division lines, by which the whole of every such parish will be divided into lots of 640 acres each; and you are further to cause such Commissioners to annex schedules to such charts, in which they shall point out and describe the natural or artificial landmarks corresponding with the division lines on every such chart, and every such lot of 640 acres shall also be described in the chart of the parish by a numerical mark; and all offers for such lands shall be made, and all such grants of land as aforesaid effected in reference to the public chart of the parish in which such lands are situate.

And it is Our will that no person shall be permitted by any contract, or successive contracts, to become the purchaser of more than 9,600 acres of land in the whole within the said territory, except in pursuance of a special order to be by Us for that purpose issued through one of Our principal Secretaries of State.

And in case any person purchasing any such lands as aforesaid, shall within ten years next after the payment of the whole of such purchase-money, make it appear to you, with the advice of the said Executive Council, by sufficient proof to be transmitted to and laid before such Council, that he hath within such period to of ten years relieved our Treasury from an expense equal to ten times the amount of such purchase-money by the employment of convict labourers upon such lands, then and in every such case you are hereby authorised and required, by a warrant under your hand, to direct the treasurer of the said colony to refund and pay back to any such person or persons the whole price or purchase-money by him, her, or them paid for such land, but without interest, and without refunding any money which may have been retained by, or allowed to any such person or persons as a discount on prompt payment; and in computing the amount of the sum saved to our Treasury by the employment of convicts, the purchaser or purchasers shall have credit to the amount of £.1. 12*s.* for each and every convict he shall have employed, and wholly sustained at his own expense, upon such lands as aforesaid, for the term of 12 calendar months.

And it is Our further pleasure that at the expiration of six months next after the time when any lands shall have been so offered for sale as aforesaid, at such average price as aforesaid, and shall not have been actually sold and disposed of, it shall be lawful for you to make grants of such land, without purchase, to any persons applying for such grants; and to the end that uniformity may be observed in the manner of making such applications as aforesaid, you shall cause one form for such applications to be prepared and printed, with necessary blanks, and a copy of every such printed form shall be delivered at the office of the said Surveyor-general to any person or persons making application for the same, on payment of a fee of 2*s.* 6*d.* sterling money, and no more.

And it is Our pleasure that upon receiving any such application as aforesaid for the purchase of lands, you shall return, through the Colonial Secretary, an answer to every such person or persons as nearly as may be in the order of time in which his, her, or their application or applications may have been received by you, and that you shall not assent to any such application, unless and until you shall see good cause to be satisfied that the person or persons so applying is or are able, and doth or do intend to expend and lay out in the cultivation and improvement of such lands a sum of money equal to one-half of the price at which such lands may have been valued by the said Commissioners.

And it is Our will that all such lands as aforesaid which may be so granted without purchase, shall be so granted to the person or persons applying for the same, and his, her or their heirs or assigns, to be by him, her or them holden in free

and

and common soccage, yielding and paying to Us, Our heirs and successors, a quit-rent for the same of 5 *l.* per cent. per annum upon the value of the lands so fixed as aforesaid by the said Commissioners; and every such grant shall pass in Our name, under the Great Seal of New South Wales, and shall be delivered to such grantee or grantees at the office of the Colonial Secretary of our said colony on the payment of a fee of 40*s.* sterling money, and no more, to such Secretary for the delivery of every such grant, and the preparing thereof, or on the payment of such smaller fee as you, from time to time, with the advice of the Executive Council of New South Wales, shall appoint; and every such grant shall previously to its being so delivered be enrolled in the Supreme Court of New South Wales, and for making every such enrolment the Registrar of every such court shall be entitled to receive from such grantee or grantees a fee of 5*s.* sterling, and no more.

And it is our pleasure that such quit-rent as aforesaid shall not commence to be payable until the expiration of seven years next succeeding the date and execution of every such grant; and every such grant shall contain a proviso or condition to the following effect, that is to say, that the same shall be and become absolutely forfeited and void, unless within such term of seven years from the date thereof such grantee or grantees, or his, her or their heirs or assigns, shall establish and make out to the satisfaction of the Governor, Lieutenant-governor, or person administering the Government of New South Wales, that he, she or they hath or have, during such period of seven years, actually expended in the cultivation or improvement of such lands a capital sum equal to one-fourth part of the value at which the same may have been estimated by the said Commissioners previously to the issuing of any such grant.

And it is Our pleasure that such quit-rent as aforesaid shall in and by every such grant be made redeemable at the option of the grantee, his or her heirs and assigns, on the payment by him, her or them into the hands of the colonial treasurer of the capital sum of money, equal to 20 times the annual amount of such quit-rent, provided that such payment be made within 20 years next after the date and execution thereof; and in calculating the amount of the payment so to be made into Our said Treasury for the redemption of any such quit-rent, the person or persons making such payment shall be entitled to credit for the sum of 32*s.* for each and every convict whom he, she or they may appear to have employed and maintained at his, her or their own expense, for one whole year, in the cultivation of such lands as aforesaid.

And it is our will that no person shall receive without purchase a grant of land exceeding 2,560 acres, or less than 320 acres; provided, nevertheless, that you shall be at liberty to make grants of land of less than 320 acres in the immediate vicinity of any town or village in all other cases in which such grants are not applied for for the purpose of establishing farms or making settlements, it being our intention by the before-mentioned restriction to prevent the increase and extension of farms and settlements too inconsiderable to replace with profit the capital to be expended in the cultivation thereof.

And it is Our will, that in case any person shall receive a second grant of land without purchase, who hath at any former time received a grant of land from Us, either with or without purchase, in Our said territory, that then the quit rent made payable on such second grant of land shall become payable immediately from and after the execution thereof, and shall not be suspended for such term of seven years as aforesaid; it being Our intention that such suspension of payment as aforesaid shall take place in favour only of persons who have not theretofore made any settlement in Our said colony, and as an encouragement and assistance to such new settlers."

NEW SOUTH WALES.

EXTRACT of the GENERAL INSTRUCTIONS, issued to the Governor of *New South Wales*, dated the 17th day of July 1825, relative to the Division of the Territory thereof into Counties, Parishes, and Districts, and to the Appropriation of Lands.

(*Sir Robert Harry Inglis.*)

Ordered, by The House of Commons, *to be Printed,*
15 *August* 1853.

932.

Under 1 *oz.*

NEW SOUTH WALES.

RETURN to an Address of the Honourable The House of Commons, dated 8 August 1853;—*for*,

A "COPY of a DESPATCH from the GOVERNOR of *New South Wales*, transmitting, for Her Majesty's Approval, an Act passed by the Legislature of that Colony, for 'Regulating the indenting of Assisted Immigrants and Others in the United Kingdom and elsewhere, and their Employment in the Colony for a certain Time after their Arrival therein;' together with any Report on that Act addressed to the Secretary of State by Her Majesty's Colonial Land and Emigration Commissioners."

Colonial Office, 18 August 1853.

FREDERICK PEEL.

—No. 1.—

No. 1.
Governor Sir C. A. FitzRoy to Sir John S. Pakington, Bart.
5 February 1853.

EXTRACT from a DESPATCH from Governor Sir *C. A. FitzRoy* to the Right Honourable Sir *John S. Pakington*, dated Government House, Sydney, 5th February 1853. (No. 15.)

(Received, 5th July 1853.)

I HAVE the honour to transmit, for Her Majesty's most gracious allowance, authenticated transcripts and also printed copies of forty-seven Public Acts and nine Private Acts passed during the last Session of the Legislative Council, together with copies of the Crown Law Officer's opinion on each of them.

I have, on behalf of Her Majesty, assented to the whole of these Acts; and I now beg to offer some explanation of the nature and objects of each.

* * * * *

16th VICTORIA, No. 42.

"AN ACT to regulate the indenting of Assisted Immigrants and others in the United Kingdom and elsewhere, and their Employment in this Colony for a certain Time after their Arrival therein."

This measure was brought in by an elected Member, as the embodiment of the recommendations of a Select Committee of the Council, a copy of whose reports, and of the evidence taken before them, has already been transmitted to you in my Despatches noted in the margin.

No. 110.—13 July 1852.
No. 169.—19 Oct. 1852.
No. 6.—6 January 1853.

It aims at a complete revolution in the system of immigration hitherto pursued in this colony, which it seeks to replace by a self-supporting system. The leading feature is, that all male immigrants above the age of 14 years, whether married or single, and all unmarried females above that age, shall either pay the price of their passage in the first instance, or shall repay the same to the colony, or such portion thereof as may remain unpaid at the time of embarkation; and a second object sought to be obtained, scarcely subordinate to the former, is to secure that the immigrant sent hither at the expense of the colony shall give the colony the benefit of his labour for a moderate period.

With this view, it is enacted that the immigrants who receive a passage wholly or partially at the public expense, shall, before receiving an order for embarkation, sign an indenture to the effect set forth in Schedule (A.), annexed to the Act, the conditions of which are briefly these:

1st. The immigrant must repay the cost of his passage within 14 days after his arrival, in which case he is freed from all further obligation; or,

2d. Failing to pay the price of his passage, he may, within the same period, hire himself with any master who will engage to pay the same in the manner defined in the Act, to be eventually deducted by regular instalments from the immigrant's wages; or,

3d. Failing both the payment of passage-money or the engagement with an employer within the time named, it will be in the power of the immigration agent to bind the immigrant to any competent employer for a period not exceeding two years; such employer paying, as before stated, the cost of the immigrant's passage, and deducting the same from his wages.

The 4th clause, however, provides that any immigrant serving under any such indenture may cancel the same after the first 12 months, on giving three months' notice, and paying up the balance of his passage-money.

The 5th and 6th clauses have been introduced to legalise and render effective in the colony engagements entered into between masters and servants in other parts of the world; and the succeeding two clauses legalise the engagement, by the Land and Emigration Commissioners on behalf of the immigration agent of this colony, of boys and girls above the age of 13 years, from any of the orphan schools or eleemosynary establishments in the United Kingdom, whose passages would be in part paid by the colony, and whose services on their arrival would be transferred to competent masters on certain conditions.

The 9th clause extends the principles applicable to emigrants who have entered into the prescribed indenture with the Land and Emigration Commissioners, to emigrants, whether British or foreign, who may contract with masters of vessels either to repay their passage-money within six days after their arrival, or else enter into service for a period of two years, on such terms as may be agreed upon by the parties or by the immigration agent.

The 10th clause extends the provisions of the Act to all contracts and indentures already entered into, or to be hereafter entered into, by emigrants sent out by any of the colonization or other societies established in the United Kingdom; a provision which it is anticipated will tend greatly to facilitate the operations of those societies.

The penalties enacted in the 11th clause are much the same as those imposed by local enactments for the like offences when committed by ordinary hired servants.

Encl. in No. 1.

Enclosure in No. 1.

NEW SOUTH WALES.

Anno Decimo Sexto VICTORIÆ Reginæ.

By His Excellency Sir *Charles Augustus FitzRoy*, Knight Companion of the Royal Hanoverian Guelphic Order, Governor-General of all Her Majesty's Australian Possessions, and Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, with the Advice and Consent of the Legislative Council.

No. XLII.

AN ACT to regulate the Indenting of Assisted Immigrants and Others in the United Kingdom and elsewhere, and their Employment in this Colony for a certain Time after their Arrival therein. [Assented to, 28th December 1852.]

Preamble.

WHEREAS the present system of bounty emigration has become highly burdensome and impolitic, by reason that the emigrants sent out under that system, at the cost of the territorial revenue, are not required, on their arrival in this colony, to take service, or to repay any portion of the public money thus expended in providing them with a passage to this colony, and it is expedient that the said system should be reformed: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council of the said colony, as follows:—

Every statute adult, whether male or female, not paying the full amount of passage-money, required to sign indenture.

I. Every male of or above the age of fourteen years, and every unmarried female of or above that age, who shall hereafter be provided with a passage as an emigrant to this colony by Her Majesty's Emigration Commissioners, and who shall not pay the full cost of his or her passage, previously to his or her embarkation to this colony, or the embarkation of the wife or family of any such male emigrant, shall, before obtaining an authority for such embarkation, sign an indenture in the form or to the effect set forth in the Schedule (A.) to this Act annexed: Provided that no emigrant of the class of country mechanics shall be required

required or bound to pay more than the sum of 15 *l.* sterling for his passage, inclusive of any deposit made by him in the United Kingdom under any regulation then in force, and that no other class of emigrants shall be required or bound to pay more than the sum of 13 *l.* sterling for his or her said passage, inclusive as aforesaid.

II. If any immigrant so under indenture shall, on his or her arrival in the colony, or within any period thereafter to be prescribed by the immigration agent in this colony for the time being, not exceeding fourteen days, pay to such immigration agent, on behalf of the Government, the full sum set against his or her name in the said indenture, every such indenture shall thereupon be cancelled, so far as it relates to every immigrant paying such sum.

And not paying 13*l.*, the full amount of passage-money required, to take service for a limited time.

III. The immigration agent for the time being, or any person deputed by him for that purpose, with the approbation of the Governor, shall have authority, with or without the consent of any such immigrant, not so paying his or her passage-money, or any balance due therefor, to make and sign, in his or her name and on his or her behalf, a contract of service with any competent employer for the term of two years, to be computed from the day on which such contract is made and signed, by an agreement in the form or to the effect in Schedule (B.) to this Act appended; and every such employer shall thereupon pay into the hands of such immigration agent, for the use of the Government of the Colony, half the amount then due to the Government for the passage of every immigrant so bound; and such employer shall undertake to pay the balance of the passage-money required by the regulations from such immigrant, at or before the expiration of twelve calendar months from the making of such contract; such employer being hereby authorized to deduct such payments, so to be made, on behalf of any such immigrant, from his or her wages, as such wages accrue or become due, by eight equal deductions from the same, during such term of two years.

Authority given to the immigration agent for the time being to bind immigrants to competent employers for two years, the employer undertaking to pay passage-money; half first year, and half second year.

Employers being at liberty to deduct such payments from wages of immigrant.

IV. Every immigrant serving an employer under any such contract may, at any time after the expiration of the first year, cancel the same by giving such employer three calendar months' notice thereof, in writing, and by paying such employer the amount of money then remaining due for his or her passage.

Immigrant to have power to cancel indenture after one year's service, on paying balance of passage-money.

V. It shall be lawful for any artificer, domestic servant, handicraftsman, mechanic, gardener, servant in husbandry, shepherd, herdsman, wool-sorter, coachman, groom, vine-dresser, or other labourer, and also for any male or female, being above the age of 18 years, and for all and every other classes and class of labourers, workmen, tradesmen, or artificers, whether they be subjects of Her Majesty or of any foreign country, by indenture or other agreement duly executed, to contract with any person or persons about to proceed to or actually resident in this colony, or with the agent or agents of any such person or persons, faithfully to serve or to proceed to and faithfully serve such person or persons in the said colony, for any period not exceeding the full term of five years.

Various classes of servants, including foreigners, empowered to contract with persons proceeding to or resident in colonies, for any term not exceeding seven years.

VI. Every emigrant already under indenture, or hereafter contracting, by indenture or otherwise, to serve any employer in this colony, shall be liable to repay to such employer any sum which he or she may contract with such employer, or with any agent of such employer, to repay, for whatever object advanced,—and whether his or her passage were paid for in the first instance by such employer, or were paid by the said Emigration Commissioners out of the public funds of this colony, and repaid or secured by such employer to such Commissioners, or to the immigration agent of the said colony.

Every such emigrant liable to repay any sum advanced for passage, outfit, &c., under any contract to such effect.

VII. It shall be competent to Her Majesty's Emigration Commissioners, by a written instrument, in the form or to the effect in Schedule (C.) to this Act appended, to engage on behalf of the immigration agent of this colony for the time being, any boy or girl of and above the age of 13 years, from any orphan or other public school or eleemosynary establishment in any part of the United Kingdom, or from any parishes or Boards of Guardians, or parents or guardians willing to contribute at the rate fixed by the regulations towards their passage to this colony; and the said Commissioners shall be at liberty, if they shall see fit, to contribute the remainder of their passage-money, not exceeding for any such boy or girl the sum of 8 *l.* sterling, out of any fund belonging to the said colony at their disposal.

Boys and girls of and above the age of 13 empowered to contract with immigration agent to serve as apprentices for four years on certain conditions.

VIII. Such boys and girls, on their arrival in the colony, may be bound by the immigration agent for the time being, by indenture, in the form or to the effect in Schedule (D.) to this Act appended, to proper employers, who, upon the execution of any such indenture, shall pay the balance of the passage-money due to the Government for such boys and girls; and shall enter into the agreement for their due maintenance and support, and also for the payment to them of wages at the rates and times in the said indenture mentioned.

And may be transferred after their arrival to competent masters on certain terms.

IX. If any owner or master of any ship or vessel shall contract, in writing, with any emigrant, either from the United Kingdom, or from any foreign country, for his or her conveyance to any port in this colony, and any such emigrant shall engage either to pay any portion of his or her passage-money, not exceeding 10 *l.*, within six days after his or her arrival, or to execute within the same period, with the concurrence of the emigration agent of this colony for the time being, or his deputy, an indenture of service for two years, to some competent employer, at such rates of wages as may be agreed upon between the parties, or as the immigration agent may deem reasonable, and by which the employer engages, upon the execution thereof, to pay or secure the amount of passage-money remaining

Emigrants contracting with master of vessel that they will, within six days after arrival, either pay balance of passage-money, or become indented for two years to approved employer, who will pay it for them, to be held bound for

fulfilment of contract, as if introduced under indenture to Emigration Commissioners in England.

remaining due from such emigrant; then every such emigrant shall be held bound to the due fulfilment of such contract, in the same manner, and subject to the same penalties and punishment for non-performance, as if he or she had arrived under indenture to Her Majesty's Emigration Commissioners in England, under the provisions of this Act.

Extension of Act to contracts and indentures entered into, both before and after arrival, by persons introduced by societies formed for the promotion of emigration to this colony.

X. The provisions of this Act shall extend and apply, as far as the same can be applied, to all contracts and indentures, entered into in any part of the United Kingdom of Great Britain and Ireland, by any emigrant brought out to this colony at the expense of any society organized or established in any part thereof for the promotion of emigration to this colony, and to all contracts or indentures of service or apprenticeship, which may be entered into by any emigrant or apprentice after their arrival here, with a view of repaying or securing to any such society the whole or any part of the passage-money of any such emigrant or apprentice.

All indentures or other written agreements to be valid without stamp, and the transfer of the services of immigrants by immigration agent to be valid, whether with or without their consent.

Breach of any such contracts subject to like fines and punishments as are provided by law for wilful violation of indentures.

Absconding from employment to be punished with imprisonment, with or without hard labour; unless there be lawful excuse.

XI. All such indentures, or other written agreements as are hereinbefore mentioned, shall, in all courts, and before all justices within the said colony, be deemed to be valid, in whatever country they may be executed, and shall be of the like force and effect within this colony, as if they had actually been made and executed by the respective parties thereto within the same; and every such contract of service or indenture of apprenticeship as hereinbefore mentioned, executed by the immigration agent for the time being of the said colony, whether executed or not by the party to be bound thereby, or with or without his or her consent, shall be as valid and binding on such party as if the same had been executed by such party, or by any parent, guardian, or other lawful authority by or on his or her behalf, and shall subject such party for any breach thereof, or of any condition or contract therein contained, upon summary conviction by or before two or more justices, to the like fines, penalties, and punishments as are now or may be hereafter provided by law for any wilful violation of the provisions of any ordinary contract of service or indenture of apprenticeship, or for any misdemeanor, miscarriage, misconduct, or ill-behaviour of any master, servant, or apprentice within the said colony; and if any such party, whether he or she be of the full age of 21 years or not, shall abscond from the service of any employer to whom he or she shall be under such contract of service or indenture of apprenticeship, as hereinbefore mentioned, without lawful excuse, every party so absconding shall be liable for a first offence to imprisonment, with or without hard labour, at the discretion of the convicting justices, for a period not exceeding three calendar months; and for every subsequent offence to imprisonment with or without hard labour, for any period not exceeding six calendar months; and the periods of such absconding and imprisonment shall not be deemed to be a part of the term of service mentioned in any such contract of service or indenture as aforesaid.

Persons harbouring immigrants, under contract to serve employers who have paid their passage-money, liable to a fine of 5*s.* a day during the period of such harbouring, up to the full amount of the immigrant's passage-money.

XII. Any person who shall employ, retain, harbour, or conceal any immigrant of any of the classes or descriptions mentioned in this Act, during the time such immigrant shall be under contract to serve any employer in this colony, who shall have paid, or come under engagement to pay, the whole, or any portion, of the passage-money of any such immigrant, shall be liable to pay such employer at the rate of 5*s.* a day for every day such immigrant may be so employed, retained, harboured, or concealed by any such person, up to the full amount or sum, not exceeding 15*l.*, which such employer may have so paid, or came under engagement to pay; and every complaint for so employing, retaining, harbouring, or concealing any such immigrant, may be heard and determined in a summary way before any two justices of the peace, who, in addition to any damages they may award by virtue of this Act, may give the complainant full costs: Provided always, that if upon the hearing of any information, under this section, any person so employing, retaining, harbouring, or concealing any such immigrant, shall prove to the satisfaction of the justices hearing the same, that he has not been guilty of undue negligence, such information shall be thereupon dismissed.

Every indenture or written agreement transmitted to the colony by Emigration Commissioners to be conclusive evidence against the parties whose names are therein written, on the production thereof, or of any certified copy, in any court of justice.

XIII. Every indenture or other written agreement officially transmitted to the immigration agent of this colony, by Her Majesty's Commissioners for Emigration in England, shall be conclusive evidence, in any court or before any justices, of the signature or consent of the several parties thereto, whose names are therein or thereunder written or mentioned, and shall require no further proof of its authenticity than its production in any such court, or before any justices, by or on behalf of such immigration agent, or by or on behalf of the employer of any such immigrant; and any certificate under the hand of the said immigration agent that any such immigrant came out as such in any vessel bringing out assisted immigrants, shall be receivable in any court, or before any justices, and shall be conclusive as to the identity of such immigrant, and as to all the facts therein certified to be true.

Passed the Legislative Council, this 23d day of December 1852.

Charles Nicholson, Speaker.

Wm. Macpherson,
Clerk of the Council.

In the name and on the behalf of Her Majesty, I assent to this Act.

Charles A. FitzRoy,
Governor-General.

Government House, Sydney, 27 December 1852.

SCHEDULES

SCHEDULES REFERRED TO.

(A.)

WE whose names are severally hereunder written, in consideration of a passage being provided for us and (as the case may be) our respective wives and families by Her Majesty's Emigration Commissioners, at the expense of the colony of New South Wales, severally bind ourselves either to repay to the immigration agent of that colony, for the time being, the sums set against our respective names, in sterling British money, within 14 days after our arrival in the said colony, or to take service with any employer in the said colony, with whom we may agree during that period, and who shall be approved of by the said immigration agent, and shall forthwith pay to him one-half of the sums set against our names respectively, and shall bind himself to pay the residue thereof to the immigration agent for the time being in 12 calendar months, or within any shorter period of the date of such employment. And in default of our making any such agreement with the consent of the said immigration agent, and in the form prescribed by law or the regulations of the Government, we hereby agree and bind ourselves to take such other employment, and to accept such wages as the said immigration agent may procure for us respectively; and we hereby, respectively give him full power and authority, with or without our future consent, to sign on our behalf a contract of service with any employer whom he may select on our behalf, for the term of two years, to be computed from the date of such contract; it being always understood that any such employer shall be at liberty to deduct from any wages that may accrue or become due to us respectively, during the said term, at the rate of one-eighth of the sums so set against our respective names in each three calendar months of such service; and further, that at any time after the expiration of the first year thereof, we shall be respectively at liberty, on giving our respective employers three calendar months' previous notice, to put an end to such contract and service by paying up the balance of the said sums then due by us for our passage.

Witness

(B.)

No. 185 .

MEMORANDUM OF AGREEMENT made this day between A. B., Esq., the immigration agent of this colony for the time being, of the first part, C. D., a free immigrant, per ship , of the second part, and E. F., of of the third part. The said C. D. engages to serve the said E. F. as a and otherwise to make generally useful for the term of two years, to be computed from the date hereof; and also to obey all the said E. F.'s, or his or her overseer's or authorised agent's lawful and reasonable commands during that period; in consideration of which services the said E. F. doth hereby agree to pay the said C. D. wages, at the rate of pounds shillings, (£.) per annum, payable quarterly, to provide him (or her) with the understated rations weekly, and to defray the expense of his (or her) conveyance to the place at which he (or she) is to be employed, it being always understood that the said E. F. is to be at liberty to deduct from any wages that may accrue or become due to the said C. D., by eight equal quarterly deductions, the sum of £. being the full sum due by the said C. D. to the Government of this colony for his or her passage thereto.

WEEKLY RATION:

Beef or mutton	10 lbs.
Flour	10 lbs.
Sugar	2 lbs.
Tea	¼ lb.

And the said E. F. hereby agrees to pay to the said immigration agent immediately upon the execution of this memorandum the sum of £. , being one-half of the amount of passage-money due by the said C. D. to the said Government, and to pay the residue thereof to the said A. B., or to such other person as may then be the immigration agent for the time being, at the end of one year from the date hereof.

(To be signed) *A. B.*, Immigration Agent.
C. D.
or
(*A. B.* on behalf of *C. D.*)
E. F.

Witness

(C.)

We, the undersigned or undernamed parties, severally agree and bind ourselves, with the consent of all or any persons now in authority over us, to serve any employers to whom we may be respectively bound by the immigration agent for the time being of the colony of New South Wales, as apprentices, for the term or period of four years, to be computed from the date of our apprenticeship in the said colony, for such wages or remuneration, after payment by such employers of the sums due for our passages to the said colony, as to the said immigration agent may seem meet; and we do hereby authorize and empower him, or his deputy, duly appointed, with the approval of the Government of the said colony, to bind us out as such apprentices, immediately upon or at any time after our arrival in the said colony

Witness

(D.)

Indenture of Apprenticeship made this day of A. D. between A. B. immigration agent for the colony of New South Wales, or C. D. his deputy, (as the case may be), of the first part, E. F., an immigrant (male or female, as the case may be), per ship , being of the age of years, of the second part, and G. H., of of the third part. The said A. B. (or C. D.) doth hereby bind the said E. F. to the said G. H. as an apprentice in the trade or calling of [here describe particular occupation], and otherwise to make (himself or herself, as the case may be) generally useful for the term of four years, and also to obey all the said G. H.'s lawful and reasonable commands, or those of (his or her) authorized agent, during that period; in consideration of which services the said G. H. hereby agrees to pay the said party of the second part wages quarterly, at the rate of 5*l.* per year for the first two years, and at the rate of 10*l.* per year for the residue of the said term, and to teach or cause (him or her, as the case may be) to be taught such trade or calling during the said term; and to provide (him or her, as the case may be) with lodging, and either with board, or a weekly ration, (at the option of the said G. H.), consisting of—

10 lbs. of flour,

10 lbs. of meat.

2 lbs. of sugar.

¼ lb. of tea.

In witness whereof the said A. B., as such immigration agent as aforesaid, or the said C. D. (as deputy to such immigration agent), for and on behalf of himself and the said E. F., and also the said G. H., have affixed their names and seals to this Indenture of Apprenticeship.

(L. S.)

(L. S.)

Witness

— No. 2. —

No. 2.
Governor Sir C. A. FitzRoy to Sir John S. Pakington, Bart.
16 March 1853.

(No. 36.)

Copy of a DESPATCH from Governor Sir *C. A. FitzRoy* to the Right Honourable Sir *John S. Pakington*, Bart.

Government House,
Sydney, 16 March 1853.

Sir,

(Received 6 July 1853.)

Referring to your despatch, No. 35, of the 10th July 1852, and to the 63d paragraph of mine, of the 5th February 1853, No. 15, transmitting authenticated transcripts of the Acts of the Legislative Council, passed in the Session of 1852, I deem it my duty to suggest to you the expediency of obtaining an Act of Parliament to give validity to the indentures to be entered into by intending emigrants, in conformity with the provisions of the Local Act, 16 Vic., No. 42, and to exempt them from the stamp-duty which would otherwise be payable thereon. It appears from the opinion given by Mr. Robert Lowe to the Land and Emigration Commissioners, a copy of which accompanied your despatch above referred to, that the provisions of the Act of Parliament, 9 Geo. 4, cap. 83, would not apply to the bond or agreement proposed in the case submitted to him to be entered into by emigrants receiving free passages, and therefore that it would require a stamp

stamp. It would seem to follow from this, that the same rule of law would apply to the indentures of emigrants under the Local Act above recited ; and hence the necessity for an Act of Parliament to effect the object in view.

I have, &c.
(signed) *C. A. FitzRoy.*

— No. 3. —

No. 3.
The Colonial Land and Emigration Commissioners to H. Merivale, Esq.
30 July 1853.

COPY of REPORT from the Colonial Land and Emigration Commissioners to *H. Merivale*, Esq.

Colonial Land and Emigration Office,
30 July 1853.

Sir,

1. WE have to acknowledge your letter of the 13th instant, enclosing, among other Acts passed by the Legislature of New South Wales, an Act, intituled,

"No. 42. An Act to regulate the indenting of Assisted Immigrants and others in the United Kingdom and elsewhere, and their Employment in this Colony for a certain Time after their Arrival therein."

2. A draft of this Act formed the subject of our report of the 26th of February last. Its principle was approved by the Duke of Newcastle, and his Grace's approval was communicated to the Governor of New South Wales. As, however, the law has been severely criticised and, indeed, has been characterised as introducing "unmistakable slavery" into the colony, it may be desirable to point out what the prescribed indenture, or rather what the bargain, between the emigrants and the colony really amounts to. The question, of course, is, whether the emigrant is subjected to any conditions, either improper in themselves or disproportionate to the benefit which he receives from the colonial fund ?

3. He receives a free passage for himself and his family (if he has one) from a country in which, if an agricultural labourer, he may be receiving from 8 *s.* to 10 *s.* a week, with no allowances, to a colony in which he will be able to command wages from 25 *l.* to 35 *l.* a year, with a hut and a weekly allowance of 10lbs. of meat and 10lbs. of flour, besides tea and sugar. His wife is probably able to earn some 15 *l.* more, or its equivalent in allowances, and his children are sure to be all profitably employed as soon as their age allows of it. Finally, there are open to him such easy avenues to independence, that they constitute in fact (or are considered by employers to constitute) the great economical difficulty of the country. The position of mechanics is not less advantageous. The wages of a blacksmith or carpenter are in New South Wales 8 *s.* or 10 *s.* a day, and are likely to be kept at that height by the fact that double the amount may be made at Melbourne.

4. The condition to which the emigrant is called on to accede is substantially that of repaying 13 *l.* of the cost of his passage, and an equal sum for every child above 14. His wife and young children receive passages free.

5. By the present law (the effect of which is clearly stated in Sir C. FitzRoy's despatch) this bargain is enforced by requiring the emigrant, within a fortnight of his arrival, to engage himself with some employer, who will bind himself to repay the money to Government within 12 months of the date of the engagement. In default of such engagement, the immigration agent may bind him, with or without his consent, for a period not exceeding two years, during which period his employer may deduct from his wages, in quarterly instalments, the sum due to Government. But he, on the other hand, may cancel his engagement after the expiration of 12 months, with three months' notice, on paying the full amount remaining due from him. And, considering the rate of wages in Australia, it would almost always be in the power of a frugal man with a small family to do this; and thus to reduce the term of compulsory indenture from two years to 15 months.

6. Assuming, as may fairly be assumed, that the immigration agent will in the last resort make a fair bargain for the emigrant, the obligation only amounts to this, that he will serve for two years, at fair wages, a master, chosen, if he so pleases, by himself, if not, by a Government officer, and during that period will repay a sum for which he has received more than an equivalent.

7. We should, however, notice that though the emigrant's indenture gives him a fortnight to procure a master for himself, no mention is made of this option in the body of the Act. Practically, however, it is clear what the Legislature intended, and the working of the Act being in the hands of the immigration agent, that officer will of course take care to allow the labourer the full benefit of his indenture. This is, of course, due to him as a matter of good faith, even though the effect may be (which we think not impossible) to give the labourer during the allowed fortnight an opportunity of escaping from his obligation. Upon the whole, looking to the control which the local government will exercise through the immigration agent over the working of the Act, and to the advantageous position which labourers must always occupy with reference to employers, in a country situated like New South Wales, we cannot think that the spirit or provisions of the Act are unfair towards the emigrant, or are likely to subject him to any oppression.

8. Thus much with regard to the principle of the Act. The only additions of detail which have been made to the draft on which we have already reported, are in clauses 9, 10 and 12.

9. The 9th and 10th clauses are intended to apply the above system with the penalties by which it is enforced (including, in the case of absconding servants, imprisonment, not exceeding three months for the first, and six months for any subsequent offence) to emigrants brought out either by private shipowners or by any society. The latter of these clauses contains the provision, usually fertile in difficulties, that rules framed for one purpose shall "apply, as far as the same can be applied," to an analogous one. But the result we imagine to be, that if an emigrant, before leaving this country, makes with any shipowner or society a contract analogous to that which Government emigrants are required to make with this Board, the private contractor shall have, as far as possible, the same means of enforcing his contract as this law secures to the public. This appears to us unobjectionable.

10. The 12th clause applies to immigrants a not unusual provision for the punishment of those who abet servants absconding from their masters.

11. The practical questions for decision are, whether the Act shall be confirmed, and how it shall be carried out.

12. On the first point we have to recommend that it should be left in operation, without confirmation or disapproval. The 1st and 7th clauses make absolute provisions respecting the mode in which this Board shall expend part of the Land Fund; but this, under the Constitutional Act (5 & 6 Vict. c. 76, s. 29), the Legislature are not yet at liberty to do. We imagine, therefore, that these clauses are illegal and void: and, therefore, though entitled to attention as indications of the wishes of the Legislature, cannot receive an express sanction from the Crown.

13. On the next point we have to state, that we fear it will be very unadvisable at present to carry out this scheme. The Duke of Newcastle is aware that we have made every preparation for so doing, even to the preparation and printing of the requisite forms, but, independently of the fact that we have at present no funds available, we stated in our report of the 23d instant, that the Legislative Council of Victoria had appropriated very large sums to the introduction of free emigrants, subject to no such restriction as that imposed in the case of New South Wales; and we have applied for authority to send ships on these terms at the rate of five ships a month. Meantime, there is every appearance that the prosperous state of this country will make it very difficult to obtain emigrants, even to the extent required by Victoria; and we cannot hope that in the face of this competition an eligible class of emigrants can be obtained for Sydney on the terms proposed by the authorities. To launch the scheme, therefore, under the present adverse circumstances, would be to invite failure, and would probably result in creating a prejudice against Sydney, which would much impede any endeavour to revive the scheme hereafter. We would, therefore, recommend that emigration to Sydney, when recommenced, should be placed on the same footing as that to Victoria. When our machinery is in full work, and employment less abundant, the pressure for emigration may become so great as to enable us to commence an indentured emigration; and we shall not fail to take advantage of such an opportunity if it offers. Meantime we would recommend that the provisions of this Act should be left in abeyance.

14. In making this recommendation, we are availing ourselves of a discretion which

which the Committee of the Legislative Council intended to place in our hands (*vide* Report of 1st October 1852), and which is pointedly referred to by Sir C. FitzRoy (Despatch of 19th October 1852, paragraph 6). We would, however, observe that no such discretion is left to us by the first clause of the Act; and if that clause had been legally valid, some difficulty might have existed in assuming it. The clause however, being, in our view, inoperative, we have no difficulty in recommending that it should not, for the present, be called into operation.

15. In stating to the Governor the decision at which the Duke of Newcastle may arrive, we think his attention should be drawn to the necessity of amending the Act on the following points:

1. Clauses 1 and 7 are, at present, *ultra vires*, the Legislative Council being expressly prohibited (5 & 6 Victoria, c. 76, s. 29) from interfering "with the sale or other appropriation of the lands belonging to the Crown within the said colony, or with the revenue thence arising."

2. It appears to us that the clause defining the manner in which this Board is to carry out the arrangement, should be permissive, and not imperative, as the local legislature have no power to impose duties of this description upon officers in this country, not subject to their jurisdiction, but appointed by the Crown. This would also get over the difficulty of our exercising, under the recommendation of the Committee of the Council and the Governor, a discretion that is not embodied in the Act.

3. Clause 3 should be brought into accordance with the terms of the indenture, by recognizing the right of the immigrant to choose an employer for himself within 14 days of his arrival.

4. It would be desirable to add to the Act the provisions suggested in our Report of the 26th February last, that the indentures of unmarried females should be terminable in case of their marriage, without notice, on payment of the balance of passage-money still due from them.

16. One other point remains to be considered in connexion with the present subject. It is provided by 9 Geo. 4, c. 83, s. 35, "That servants of various kinds may contract, *without stamp*, with persons about to proceed to, or actually resident in, New South Wales or Van Diemen's Land, or with their agents, to serve such persons, for periods not exceeding seven years.

17. But, by the proposed indenture, the emigrant does not contract with any ascertained person or his agent; consequently, according to the opinion of Mr. Lowe (enclosed in our Report of the 24th June 1852) the indenture does not fall within the above exemption, and remains liable to stamp-duty. We imagine that the Colonial Legislature could not render valid, even in the colony, a document carrying on its face the violation or evasion of the English Revenue Law, though the 11th clause of the Act, if interpreted by the marginal note, bears the appearance of having been intended to do so. Still less, certainly, could this Board be the channel of effecting such indentures without securing that they should be stamped, as required by the Revenue Law of this country.

18. The present stamp-duty would, in effect, impose a tax on indentured emigration. And we would suggest that such a tax might not be laid on an emigration which has hitherto been considered a national benefit, and of which the expense is defrayed partly by the colonies, partly by the labouring classes. We would submit, therefore, that the stamp-duty on these indentures might properly be remitted; and if so, an Act of Parliament would be necessary, as suggested by the Governor, to extend the exemption of 9 Geo. 4, c. 83, to all contracts by which emigrants bind themselves to perform, in Australia, any of the services specified in that Act, for periods not exceeding (say) three years.

19. We presume, however, that no decision could be taken with respect to such an Act without the sanction of the Lords of the Treasury.

We have, &c.

(signed) *T. W. C. Murdoch.*
Frederic Rogers.

NEW SOUTH WALES.

COPY of a DESPATCH from the GOVERNOR of *New South Wales*, transmitting, for Her Majesty's Approval, an Act passed by the Legislature of that Colony for "Regulating the Indenting of Assisted Emigrants and Others, in the United Kingdom and elsewhere, and their Employment in the Colony for a certain Time after their Arrival therein," &c.

(*Mr. Miles.*)

Ordered, by The House of Commons, *to be Printed*,
20 *August* 1853.

1001.

Under 2 oz.

NEW SOUTH WALES.

(OCCUPATION OF CROWN LANDS.)

FURTHER RETURN to an ADDRESS of the Honourable The House of Commons, dated 25 April 1845;—*for*,

"COPIES or EXTRACTS of any CORRESPONDENCE relative to CROWN LANDS and EMIGRATION in *New South Wales*.—(In continuation of the Papers presented on the 9th of August 1844, No. 626," Part I.; and No. 267, Parts II. & III., No. 372, Part IV., and No. 638, Part V., Session 1845.)

Colonial Office, Downing-street, 12 June 1846.

LYTTELTON.

PART VI.

LICENSED OCCUPATION OF CROWN LANDS.

(*Mr. G. W. Hope.*)

Ordered, by The House of Commons, *to be Printed*, 17 *June* 1846.

SCHEDULE.

No.		Date.	Subject.	Page.
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2.	Lord Stanley to Governor Sir George Gipps.	7 August 1845	Transmitting Copy of a Bill to amend the Australian Land Sales Act, 5 & 6 Vict. c. 36, explaining the objects which the Bill was intended to effect - -	5
3.	Lord Stanley to Governor Sir George Gipps.	31 August 1845	In explanation of some points relative to the Bill for amending the Australian Land Sales Act - - - -	11
4.	Lord Stanley to Governor Sir George Gipps.	8 August 1845	Enclosing Copy of a Report of the Colonial Land and Emigration Commissioners on the Occupation of Waste Lands of the Crown in New South Wales; and Copies of Papers referred to in that Report - - - - -	14
5.	Governor Sir G. Gipps to Lord Stanley.	11 August 1844	Forwarding Papers on Squatting, printed for the Legislative Council - -	21
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SKETCH, showing the Squatting Districts - - - - - - - - *between* pp. 64 & 65

COPIES or EXTRACTS of any CORRESPONDENCE relative to CROWN LANDS and EMIGRATION in *New South Wales*.

—No. 1.—

(No. 121.)

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

No. 1.
Governor Sir George Gipps to Lord Stanley, 2 August 1845.

Government House, Sydney,
2 August 1845.

My Lord,

I HAD, on the 22d June last, the great satisfaction of receiving your Lordship's despatch (No. 12) of the 30th January, conveying to me the Queen's approbation of the proceedings which I have adopted in respect to the occupation of the lands of the Crown in this colony under depasturing licenses. I lost no time in bringing your Lordship's despatch, and the documents which accompanied it, before my Executive Council; and with the advice of the Council they were published for general information in the Government Gazette of the colony, together with the despatches from myself to your Lordship on the same subject; a copy of the Gazette in which they appeared, is enclosed.

For Lord Stanley's Despatch, 30 Jan. 1845, No. 12, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III., page 59.

I also, with the advice of the Council, caused a further notice to be issued on the 10th July (copy enclosed), containing as much of the new regulations as can, in the opinion of the Council, be brought into operation in the present year.

On comparing this notice of the 10th July last with that which was issued on the 2d April 1844 (and reported in my despatch of the following day, No. 75), your Lordship will perceive that the following alterations have been made with the advice of the Executive Council:—

For Sir George Gipps' Despatch, 3 April 1844, No. 75, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III., page 3.

1. In respect to existing runs, the maximum extent which can be covered by a single license, is fixed at 25 square miles, instead of 20; but existing runs of less than 25 square miles, are not to be increased, unless they be insufficient to feed 4,000 sheep, and that there be adjoining land at the disposal of Government; also, that no greater quantity of land than may be sufficient to feed 4,000 sheep is to be allowed in the future formation of new runs.

2. The number of cattle which is to be considered equivalent to 4,000 sheep, is increased from 500 to 640.

3. The extra payment of 1 *l.* per thousand for any number of sheep a squatter may have on his run above 4,000, is only to be made in respect to entire thousands, so that a squatter may have any number of sheep on his run not exceeding 4,999, without being required to pay more than 10 *l.* for his license; whereas, under the notice of the 2d April 1844, he would have been required to pay the extra 1 *l.* if he had 4,001 sheep.

These are all concessions in favour of the squatter, and are of a permanent nature; I scarcely think they were required on any grounds of strict justice, but as a matter of expediency, and as a peace-offering to the squatters, I, with the advice of my Council, adopted them.

There is one other alteration to be noticed, but it is of a temporary nature, and was adopted as a matter of necessity by the Government, as is explained in the first paragraph of the notice. It is, that on large runs, or runs exceeding 25 square miles, the licenses are for the year which commenced on the 1st July 1845, to be paid for at the rate of 10 *l.* for 4,000 sheep, or 2 *l.* 10 *s.* per thousand, irrespective of the extent of the run; whereas, according to the notice of the 2d April 1844, the price of the license ought to be fixed (as it also will be after the 1st July 1846) chiefly in proportion to the extent of land occupied, though not altogether without reference to the quantity of stock depastured on it. To exemplify the nature of the alteration I may explain, that a person occupying a run of 50 square miles, having on it 8,000 sheep, will equally have to pay 20 *l.* under the provisional regulations, and under those which are to come into force on the 1st July 1846. In the one case the 8,000 sheep are charged at 2 *l.* 10 *s.* per thousand; in the other case, the land will be charged as two runs, at 10 *l.* each, making in either case 20 *l.*

But if the run, or extent of land occupied, exceed 50 square miles, the number of sheep being as before, only 8,000, the charge for the present year—as it is to be irrespective of the quantity of land—will be only 20 *l.*; but after the 1st July 1846, the rent or license fee, being charged on the land and not on the sheep, will be 30*l.* instead of 20*l.*; and if the extent of land exceed 75 square miles, the charge for it will be 40*l.*

This explanation will also, I trust, show the expediency of making the payment not solely to depend on the number of sheep or cattle. If a squatter were required to pay solely in proportion to his stock, without any reference to the quantity of land he occupied, his greediness for land would in no way be checked. Supposing him to have 10,000 sheep, he might still retain 200,000 acres, paying only for them 25 *l.*, whereas, under the new regulations, he would have to pay for eight runs, or 80 *l.* instead of 25 *l.*

I now beg leave most gratefully to return my thanks for the support afforded to me by your Lordship's despatch of the 30th January last. The publication of it in the colony has, I may say, had the full effect which I ventured to anticipate from it in my despatch (No. 34) of the 13th February. I even entertain some hope that the session of the Legislative Council which I opened three days ago, may pass off more quietly than the last. Out of the Council, public feeling has changed in a very remarkable degree. Symptoms of this change were remarked by me so long ago as the month of October 1844, when I visited the district of the River Hunter, as reported in the postscript to my despatch (No. 225) of the 12th October 1844; but I think I may now venture to assert, that on the squatting question, I carry with me a majority of the inhabitants of the colony.

Your Lordship will perceive by the notice of the 10th July, that it remains still to issue regulations for the purchase of homesteads. The delay in this matter is chiefly caused by a desire very generally expressed, that the quantity of land to constitute a homestead should be reduced from 320 to 160 acres; and that during a period of four years, reckoned from the 1st July last, the purchase of a homestead shall not carry with it a right to the remainder of the run. As the possession of the run will be the chief inducement for a stranger to outbid the actual occupier or squatter, an arrangement of this nature would be almost equivalent to a right of pre-emption for four years; and a right of pre-emption is what the squatters are now most anxious to obtain.

These two points are now under consideration in my Executive Council.

If the extent of the homestead be reduced, it will be on condition that the expense of the survey of it shall be borne by the purchaser; and as this will relieve the Government, not only from considerable expense, but also not impossibly from inconvenient pressure, I am not altogether opposed to the concession; especially if the making it tend, as I am assured it will, to bring the whole matter to an amicable settlement.

I have at the same time some doubt, whether the reduction of the homestead from 320 to 160 acres, may not be found disadvantageous to the squatters themselves, as it will, though not until after the expiration of the four years above alluded to, tend to increase the number of bidders against them; it may even lead to speculations in homesteads, and call into existence a new description of "land-sharks," as persons are called in New South Wales who attend public auctions for the purpose of buying land on speculation, or picking up what are supposed to be good bargains.

I have, &c.
(signed) *Geo. Gipps.*

Enclosure in No. 1.

(No. 2.)

Crown Lands Occupation.

Colonial Secretary's Office, Sydney,
10 July 1845.

Encl. in No. 1.

1. With reference to the notice respecting licenses to pasture sheep and cattle on Crown lands, which was issued from this office on the 2d of April 1844, and to the despatches of which copies were published in the Government Gazette Extraordinary of the 28th of June last, his Excellency the Governor, with the advice of the Executive Council, has directed this additional notice to be published.

2. The

2. The quantities of land actually in the occupation of individuals being as yet, in many cases, imperfectly known to the Government, the rules laid down in the notice of the 2d of April 1844 cannot be fully applied in the issue of licenses for the current year; licenses, therefore, for the occupation of Crown lands beyond the boundaries of location, during the year which commenced on the 1st instant and will end on the 30th June 1846, will be issued on the following terms:

(1.) A separate license must be taken out for each station or run which is returned as a separate station in the last half-yearly return of the commissioner of the district.

(2.) The price of the license will be 10*l.*; but the additional charge of 2*l.* 10*s.* will be made for every thousand sheep above 4,000, which, according to the last return of the commisioner of the district, may appear to be depastured on the run: provided, however, that no extra charge be made for any number of sheep less than a complete thousand (or their equivalent in cattle): provided also, that the charge of 2*l.* 10*s.* per thousand, for the excess above 4,000, be reduced to 1*l.*, on the production of a certificate from the commissioner that the whole of the sheep or cattle are kept upon a run not exceeding 25 square miles or 16,000 acres.

(3.) For the purposes of this notice 640 head of cattle will be considered equal to 4,000 sheep, and in cases in which the stock upon a run may consist of both sheep and cattle, the amount of the mixed stock, horses being reckoned as cattle, will be calculated on the principle of reckoning 640 cattle equal to 4,000 sheep, instead of 500 to 4,000, which is the proportion stated in the notice of the 2d of April 1844.

3. The Governor, with the advice of the Executive Council, has further directed the following explanatory remarks to be published, in order to guard against misapprehensions which might otherwise arise as to the future intentions of Government from the publication of this notice.

4. Although the quantity of land mentioned in the third paragraph of the notice of the 2d of April 1844 is, by the present notice extended from 12,800 acres to 16,000 acres, the Government will still consider the quantity of land to be held in ordinary cases under a single license to be that which is in ordinary seasons sufficient for 4,000 sheep or 640 cattle. On this principle, a station or run, although consisting of 25 square miles, may, nevertheless, if insufficient to feed 4,000 sheep or their equivalent in cattle, be enlarged to the extent requisite for that purpose. Existing runs will not be reduced below 16,000 acres or 25 square miles, because they are sufficient for more than 4,000 sheep or 640 cattle; neither, on the other hand, will existing runs be enlarged because they may not contain 16,000 acres, unless they be insufficient to pasture 4,000 sheep or their equivalent; nor in any case can a run be enlarged (even though not capable of feeding 4,000 sheep), unless there be adjoining land at the disposal of the Government. The present holders of large blocks of land will be allowed to retain out of each block as many runs as they choose to pay for at the rate of 10*l.* per annum for each run, provided that each run do not exceed 16,000 acres, unless more be required for 4,000 sheep or their equivalent; and that the runs taken out of the same block be taken contiguously, and in such manner as to form of themselves a compact block of land, natural boundaries being observed as far as practicable.

5. It is clearly to be understood, that this notice is issued solely on account of the necessity which exists for making known without delay the terms on which licenses will be granted for the current year; and that regulations more in detail, for the occupation of runs, but not departing in principle from the notice of this day, will be issued as soon as possible, as also will regulations for the purchase of homesteads.

6. It is also to be understood, that the terms of payment hereby established for the issue of licenses will be liable to revision, in the event of the discontinuance or reduction, at any time, of the assessment on stock, levied for the purposes of maintaining a police force, under the provisions of the Act of the Governor and Council, 2 Vict., No. 27.

By his Excellency's command,

E. Deas Thomson.

—No. 2.—

(No. 99.)

Copy of a DESPATCH from Lord *Stanley* to Governor Sir *George Gipps.*

Sir, Downing-street, 7 August 1845.

No. 2. Lord Stanley to Governor Sir George Gipps, 7 August 1845.

I enclose for your information a copy of a Bill to amend the Australian Land Sales Act, 5 & 6 Vic. c. 36, introduced into the House of Commons by Mr. Hope at the close of the Session of Parliament just ended, but which did not proceed beyond a first reading; and although it extends in its operation to all the Australian colonies except Van Diemen's Land, I address myself more particularly to you, as the observations which apply to New South Wales, although embracing a wider range, include those applicable to the other colonies proposed to be affected by it.

The circumstance of my having waited until in possession of the Report of the Committee of the Legislative Council of New South Wales on the question of the occupation of land, with the evidence which accompanied it, and of my having allowed a further time to elapse for examination of those documents when received, and for discussion with parties in this country, unfortunately prevented the introduction of this Bill in time to entitle the Government to press for its passage through Parliament last Session. The Bill therefore, as passed, was limited to the clause exempting Van Diemen's Land from the operation of the 5 & 6 Vict. c. 36, and a new Bill was laid upon the table, and printed for circulation during the recess, embodying, with some important changes, the principal provisions of that first brought in.

By the Bill as originally introduced, it was intended to effect four objects as regarded the Australian colonies generally.

The first; to remove any doubts which might be entertained of the power of the Crown to grant leases of unsold waste lands.

The second; to remove a similar doubt as regards the reservation of minerals.

The third; to establish a fixed annual payment by way of agistment for all cattle depastured on unsold Crown lands, in lieu of any rent upon the lands themselves or fee for a depasturing license.

The fourth; to appropriate the whole proceeds of Crown lands to be raised under the Bill to the same purposes as those to which the proceeds of sales are devoted by the original Act 5 & 6 Vict. 36.

By the Bill as now framed, the term of lease to be granted by the Crown is proposed to be limited to seven years, and an important clause has been added empowering the Government, in cases in which lands have been occupied for a period of five years, and improvements effected, to grant leases of such lands for terms not exceeding seven years, without exposing them to the test of auction. Provision being added in both cases that leases shall not be assignable, nor underletting lawful by lessees, without permission from the Crown.

I do not refer to the 8th clause, relating to the appropriation of the proceeds, as any addition to the original Bill, it having been contained in the Bill as brought in in the House of Lords, and omitted at the last stage in that House, merely to avoid all possibility of interference with the privileges of the House of Commons, where it would, as a matter of course, have been added in Committee.

Such being the principal provisions of the two Bills, I will add a brief statement of the motives which influenced Her Majesty's Government in deciding upon their adoption.

I commence with that regarding minerals, in sect. 2, as being the one on which the least explanation is required.

The mineral resources of Australia are, as you are aware, beginning to attract the notice of capitalists in this country to a large extent, and considerable sums have already been bid at auction in South Australia for land supposed to contain minerals below it; and it appears probable that the same expectation will hereafter produce similar results.

The effect of this course is, perhaps, so far as the colony in which the sale takes place, is concerned, to ensure to it the full benefit of the value of these minerals; but at the same time the mode in which this is accomplished, necessarily leads to unduly speculative, and, to a certain extent, gambling offers being made.

Although doubts have been raised as to the power of the Crown, under the present law, to reserve minerals or let them on a royalty, yet the opinion which I have received from the highest legal authorities is so decided in favour of the right, that were no other object in view than to declare that right, I should not have felt justified in introducing this provision; but independently of the advantage of a legislative declaration on a question which could not easily be brought to the issue of a trial by the ordinary course of law, it was my wish, by appropriating the royalties reserved (as subsequently done in the 8th clause) to render the whole system uniform, and secure the benefit of the proceeds of the mines to the same objects to which other portions of the land revenue are appropriated.

The object of clause 2, in the proposed Bill, therefore, is merely to remove the possibility of any doubt, as to the powers of the Crown to resort, as a substitute for sale, to the course of letting on a payment to be proportioned to the benefit received, as being a plan of more certain advantage to those engaging

to

to work the mines, and not less advantageous to the colonies in which they may be situated.

Addressing myself to the remainder of the Bill, I fortunately find my labours much lightened by the previous discussions which have taken place between us on the subject.

I have considered, with the respect which is due to its authority, the Report of the Committee of the Legislative Council of the 20th of August 1844, and the evidence by which it is accompanied; I see, however, no ground for departing from the views which I had formed on the reports of which I was before in possession, and which I communicated to you in my despatch, No. 12, of the 30th of January last.

For Lord Stanley's Despatch, 30 Jan. 1845, No. 12, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III., page 59.

Adhering, however, to the principles there laid down, more especially to that of maintaining the rights of the Crown and the public to all land which had not been alienated by the Crown, it was my wish to propose to Parliament such modifications of the existing law as appeared likely, without infringing upon the general principle of the Land Sales Act 5 & 6 Vict., c. 36, to afford additional facilities for rendering the unsold lands of the Crown productive, and to give a certain security of tenure to persons now in occupation of Crown lands, on easier terms than under the existing law it was possible for you to grant it to them.

In the interviews which I myself had with gentlemen connected with New South Wales, and in the communications which reached me on this subject, I found that an inability to avail themselves of the opportunities offered by your regulations of last year, was much complained of, as resulting from their not being in a condition in many cases to provide the sum required under that system, for the purchase of the prescribed number of acres. To meet this objection, I proposed to remove any doubt which might be raised as to the power of the Crown to grant leases, though I have reason to believe such doubts to be unfounded; and as the outside limit to which the exercise of that power should be permitted to extend, I originally named 21 years.

The provision, however, as originally introduced by me, was objected to on two distinct and opposite grounds. First, by those desirous of maintaining the Land Sales Act in its integrity, on the ground that the departure from it was so great as to involve a virtual repeal of the Act; and secondly, by persons interested in the existing system of occupation of Crown lands in New South Wales, on the ground that parties who had expended capital and effected improvements as squatters, would be exposed to great risk if liable to have their stations let by auction, of being outbid by speculators.

As regards the first ground of objection.

In the first place, under the construction that the Crown has the power of alienating waste lands under the original Act by way of lease; the provision virtually would operate as a restriction, not as an extension of its powers; but, moreover, it being my intention to confine the granting of leases to cases in which the land is required for pastoral purposes, and in which at present it cannot reasonably be expected that sales at a high price can be effected, the instructions which I should have been prepared to issue to you would probably have in great measure removed the apprehensions entertained. At the same time, in order to guard as much as possible against any abuse of the power, I have agreed, in the Bill last introduced, to limit the extent of such leases to seven years; a term which although not long enough to admit of the secure investment of capital for agricultural purposes, will, as I am assured by gentlemen whose experience qualifies them to give an opinion, be sufficiently long to induce persons to erect not only the establishment necessary for grazing purposes, but also for their own personal comfort.

As regards the second ground of objection; viz. the risk to which present occupiers would be exposed. That also would in part have been obviated by the instructions which I intended to have given for securing to existing holders of stations the same benefit of their improvements as given them under your regulations of last year.

The repsesentations made to me, however, of the extreme hardship which would be inflicted on many parties, even with that safeguard, if liable to be deprived of the stations which they had occupied and improved, induced me, on the re-introduction of the Bill, to consent to the important modification contained in the seventh clause.

The rent, you will perceive in such cases, is to be fixed by the Governor and Executive Council; and I am happy to say, that I find among those most directly and materially affected, a general concurrence in the view I myself took, that that rent ought to be large, in proportion to the advantage conferred by the grant of leases without exposure to competition.

Although I have dwelt upon the provisions regarding leases at some length, I must also advert to the other important alteration which is proposed, affecting the management of the waste lands of the Crown, in the introduction of a system of agistment as a substitute for a license fee.

The advantage of the option which it is thus proposed to give, appears, as far as I have been able to collect, to be so generally admitted, that I need scarcely enter upon any detailed justification of it. As a mode of apportioning the payments to be made by individuals to the amount of benefit derived by them, its justice seems unquestionable, while in many cases, where difficulties would otherwise be experienced in deciding upon the extent of a run in reference to its supposed capability, great facilities will be afforded for effecting a settlement, while the alternative of continuing the old system of payment for a license being still left open, that may be resorted to if preferred.

The only other provision to which I need specially refer, is that contained in the 8th section. The appropriation there made of the proceeds of the sums received for licenses, agistment and rents, as well as of the royalties to be reserved in respect of minerals, to the same purposes to which the proceeds of land sold are devoted, is a provision calculated, I believe, to forward the best interests of the colony, and will, I have no doubt, be received there generally, with satisfaction.

Indeed, the only circumstance which could have raised any doubt in my mind as to the light in which it would be viewed, is the adoption by the Committee of Council, in their resolutions of 5th December 1843, of an opinion condemnatory of the application of the proceeds of land sold to emigration purposes; but evidence which has lately reached me of the reviving demand for labourers in New South Wales, makes me anticipate, that whatever may have been the feeling prevalent on this question during the continuance of commercial distress in the colony, the same views on this subject will have revived with returning prosperity, which were entertained there so decidedly a few years ago, and that the expediency of devoting the land fund to the introduction of labour, will, ere now, again be recognized.

For Report of Committee of Council, of 5 Dec. 1843, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No 267, Part II., page 22.

On the remaining clauses of the Bill I think it unnecessary to remark. Except those of a formal nature they are adopted from the Colonial Act, 2 Vict. No. 27, and are obviously necessary for the working of a system of agistment, as well as for one of granting licenses.

For Colonial Act, 2 Vict. No. 27, *vide* Papers ordered by the House of Commons to be printed, 2 April 1844, No. 180, page 12.

Such being the provisions of the Bill, I ought to add, that I have been pressed to introduce into it clauses to define the duties of the Commissioners of Crown lands, which I declined to admit, partly because I believe that by the adoption of a system of payment by agistment, many of the grounds on which complaints are made of the extent of their powers will be removed; but mainly, because my object in the introduction of the Bill is not to make minute regulations, which can be better accomplished on the spot, but to introduce such changes, as consistently with the maintenance of the principle, that the management of the waste lands in the colonies is properly a subject not of colonial only, but also of Imperial interest, and one to be regulated by Imperial legislation, will enable the local authorities to carry out in detail measures, of which the general outline is contained in Parliamentary enactments.

Such, you will perceive, is the character of the Bill I now send. It does not supersede any system already in operation in the Australian colonies, but it empowers the local authorities to add to the modes in which the occupation of Crown lands can now be permitted, leaving to them a discretion in the adoption of those modes, to be exercised under the responsibility which attaches to them as servants of the Crown.

I have, &c.

(signed) *Stanley.*

Enclosure

Enclosure in No. 2.

8 August 1845.—9 Vict.—(No. 2.)

A BILL to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further Provision for the Management thereof. Encl. in No. 2.

Whereas by an Act passed in the Session of Parliament held in the fifth and sixth years of the reign of Her Majesty, intituled, "An Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies," provision is made for the conveyance and alienation of such waste land: Preamble: 5 & 6 Vict., c 36.

And whereas doubts have arisen whether, under that Act, Her Majesty, or any person acting in the name and on behalf of Her Majesty, can convey or alienate any waste lands of the Crown in any such colony by lease or demise, reserving an annual rent or payment for the same:

1. Be it therefore enacted and declared, by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords spiritual and temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that nothing in the said recited Act contained shall extend or be construed to extend to prevent Her Majesty, or any such person acting in the name and on the behalf of Her Majesty as aforesaid, from demising for a term of not more than seven years, any waste lands of the Crown in any such colony, at an annual rent payable to Her Majesty by the lessee for and in respect of such lands: provided always, that all leases so to be made and granted shall contain clauses of forfeiture, and provisoes for re-entry for non-payment of such rent, or for under-letting or assignment of the whole or any portion of such lands by such lessee without license in that behalf first obtained from Her Majesty, or such person acting in the name and on the behalf of Her Majesty as aforesaid, and shall be offered by public auction to the highest bidder for the same, after due notice of such public auction given as in the said recited Act is directed, together with a specification of the lands intended to be demised, and of the duration of the proposed term: and provided also, that during the continuance of any such lease it shall not be lawful for Her Majesty, or any such person acting as aforesaid, to sell the reversionary estate expectant upon the determination of such lease, without the consent in writing of the lessee or other party to whom the lease may then belong. Governor of colony may grant leases of waste lands.

2. And whereas doubts have also arisen whether, in carrying into execution the provisions of the said recited Act, Her Majesty, or any such person acting in the name and on the behalf of Her Majesty as aforesaid, is at liberty to reserve, to and for the use of Her Majesty, any portion of the minerals lying in or under any such lands; be it enacted and declared, that nothing in the said recited Act shall extend or be construed to extend to prevent Her Majesty, or any such person acting in the name and on the behalf of Her Majesty as aforesaid, from reserving to and for the use of Her Majesty, in any conveyance or alienation as aforesaid, or in any lease of any such waste lands as aforesaid, the whole or any portion of the minerals lying or being in or under any such lands, or any rents or royalties to be paid or rendered in respect thereof. Minerals to be reserved.

3. And be it enacted, that from and after the day when this Act shall come into effect in the manner hereinafter mentioned, so much of the said recited Act as relates to the granting, under certain conditions therein mentioned, of licenses for the occupation of any waste lands of the Crown in any of the said colonies, and for felling, removing and selling the timber growing on any such lands, shall be repealed: provided always, that nothing herein contained shall render invalid any license which shall or may have been granted previously to the day when this Act shall come into effect. Repeal of 5 & 6 Vict., c. 36, s. 17.

4. And be it enacted, that from and after such day as aforesaid, the Governor of any such colonies shall have the power to grant to any person a license for any time not exceeding twelve calendar months from the date thereof, to become and be an occupier of waste lands of the Crown in such colony, or a license for felling, removing and selling the timber growing on waste lands therein. Power of Governor to grant licenses for occupation, &c.

5. And be it enacted, that from and after such time as aforesaid, any person, unless claiming under a sale or lease as aforesaid, who shall be found occupying any waste lands of the Crown in any of the said Australian colonies, either by residing or by erecting any hut or building thereon, or by clearing, inclosing or cultivating any part thereof, and who shall not previously have obtained a license from the said Governor for the occupation of such lands, or who shall occupy as aforesaid, after such license shall have been determined by forfeiture or otherwise, shall be liable, on conviction thereof, to the penalties following; that is to say, for the first offence, a sum not exceeding ten pounds; for the second offence, a sum not exceeding twenty pounds; and for the third or any subsequent offence, a sum not exceeding fifty pounds: provided always, that no information shall be laid or brought for any second or subsequence offence, until the expiration of fourteen clear days from the date of the previous conviction. Penalties for unauthorized occupation of Crown lands.

6. And be it enacted, that any person or persons occupying any such waste lands under such license as aforesaid, which shall have been granted without fee or payment for the same, shall pay by the year such a sum, not exceeding one penny for every sheep, and three-pence Occupiers of waste lands to pay agistment.

three-pence for ever horse and head of horned cattle depastured upon the waste lands of the Crown, as shall be fixed by Her Majesty in her Privy Council, or by the Governor of such colony, with the advice of his Executive Council.

Leases in certain cases to be granted without auction in New South Wales.

7. And whereas in the colony of New South Wales, there are certain waste lands of the Crown situate beyond the limits allotted to settlers for location in the said colony, which are now occupied under license, and upon which improvements have been made by and at the expense of the occupiers thereof: and whereas it is expedient that certain portions of such lands so improved, shall be let on lease to the occupiers thereof, without offering the same by public auction to the highest bidder as hereinbefore provided; be it therefore enacted, that when any waste lands of the Crown, situate beyond the limits allotted to settlers for location in the said colony, shall have been occupied by any person under such license as aforesaid, for a period of not less than five successive years then next preceding, it shall be lawful for the Governor of the said colony, if he shall think fit, to demise such lands or any part of such lands so occupied as aforesaid, to such person, for a term of not more than seven years, at such an annual rent as shall be fixed by the said Governor, by and with the advice of his Executive Council, without offering such lease by public auction to the highest bidder as hereinbefore provided: and provided always, that all leases so to be made and granted, shall contain clauses of forfeiture, and provisoes for re-entry for non-payment of such rent or for under-letting or assignment of the whole or any portion of such lands by such lessee, without license in that behalf first obtained from Her Majesty, or such person acting in the name and on the behalf of Her Majesty as aforesaid.

Appropriation of proceeds.

8. And be it enacted, that subject to the charges in the recited Act mentioned, which shall be incurred in carrying into effect the provisions of that or of this Act, the gross proceeds of the sums so paid for licenses and for agistment, when such licenses shall have been granted without fee or payment for the same, and of the rents, royalties and other payments to be made and rendered under the provisions of this Act, shall be appropriated and applied to and for the like purposes as the proceeds of the sales of the waste lands of the Crown in each of the said colonies are appropriated and applied, under and by virtue of the provisions of the said recited Act.

Method of recovering seignorage on minerals and agistment.

Forfeiture of depasturing license in case of non-payment of agistment.

9. And be it enacted, that if at any time the royalties reserved on minerals, or the monies payable for agistment, shall be in arrear and unpaid, the like remedy shall accrue to Her Majesty for recovery thereof by distress, as for the recovery of money rent reserved by lease; and if at any time the yearly sum payable by any person for agistment, under and by virtue of the provisions of this Act shall be in arrear and unpaid for the space of three calendar months, the license of such person to occupy such waste land as aforesaid, shall become forfeited.

Occupation under license not to affect the rights of the Crown.

10. And be it enacted, that no possession or occupation of any land taken or had under or by virtue of any license as aforesaid, shall be construed to give any title whatever against the Crown, or to alter or affect the rights of Her Majesty, Her heirs and successors, in respect to any such land.

Mode of recovering penalties.

11. And be it enacted, that the penalties hereinbefore imposed by this Act, where not otherwise provided for, shall be recovered in a summary way, before any one or more justice or justices of the peace, upon the information or complaint on oath of any justice of the peace, or of any owner or proprietor of land, or of any person holding any lease or license for the occupation of Crown land, or of any bailiffs or officers appointed by any justice of the peace as aforesaid.

Protection of persons acting in execution of the Act.

12. And for the further protection of persons acting in execution of this Act; be it enacted, That all actions or other proceedings for any thing done under this Act, shall be commenced within six calendar months after the matter complained of was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant, one calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence, at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action was brought, or if a sufficient sum of money shall have been paid into court, after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become non-suited, or discontinue such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and although a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Proceedings not to be quashed or removed by certiorari.

13. And be it enacted, that no order, judgment or other proceeding made, touching or concerning any of the matters aforesaid, or touching and concerning the conviction of any offender or offenders against this Act, shall be quashed or vacated for want of form only, or be removed or removable by certiorari, or any writ or process whatsoever, into any superior court of jurisdiction in any such colony.

Definition of words "Australian Colo-

14. And be it enacted, that the words "Australian Colonies," as employed in this Act, are intended to describe the same colonies as in the said recited Act are mentioned, with their respective

respective dependencies, as such colonies are now or shall hereafter be defined and limited, and any other colonies which may hereafter be established, as in the said recited Act they are mentioned; and that the word "Governor," as employed in this Act, is intended to describe the same person as in the said recited Act; and that the words "waste lands of the Crown," as employed in this Act, are intended to describe any lands in the said colonies, whether within or without the limits allotted to settlers for location, and which now are or shall hereafter be vested in Her Majesty, Her heirs and successors, and which have not been already granted or lawfully contracted to be granted by Her Majesty, Her heirs and successors, to any person or persons in fee-simple, or for an estate of freehold or for a term of years, and which have not been dedicated and set apart for some public use; and in directing any person or thing, any word importing the singular number shall be construed to mean several persons or things respectively, unless there be something in the subject or context repugnant to such construction.

nies," "Governor" and "waste lands."

15. And be it enacted, that this Act shall take effect and have the force of law in each of the Australian colonies, from and after a day to be specified by the Governor of each of such colonies, in some proclamation to be issued by him for that purpose.

Commencement of the Act.

16. And be it enacted, that this Act may be amended or repealed during the present Session of Parliament.

Act may be altered this session.

— No 3. —

(Private and Confidential.)

EXTRACT of a DESPATCH from Lord *Stanley* to Governor Sir *George Gipps*, dated Downing-street, 31 August 1845.

No 3.
Lord Stanley to Governor Sir George Gipps, 31 August 1845.

As there are some points relative to the Bill for amending the Land Sales Act (5 & 6 Vict., c. 36), transmitted in my despatch, No. 99, of the 7th instant, which I can discuss more freely in a private communication than in a public despatch, I address you separately in that form, and I commence by some additional explanations as to the period at which the Bill was introduced into Parliament last Session, together with a notice of the course I propose to take next Session.

In consequence of the opinion expressed by you in your separate despatch of 3d April 1844, it was my anxious wish to have been able to legislate on the subject of the occupation of the unsold lands of the Crown last Session.

The information, however, which was conveyed to me by your despatch, No. 137, of 9th July 1844, that I might expect the Report of a Committee of the Legislative Council on the subject, left me scarcely an option as to postponing the introduction of any measure into Parliament until after that Report should have been received. It did not reach me, unfortunately, till the 29th of March last. Some time was then required for the perusal of the voluminous evidence by which it was accompanied, and a further period was occupied in discussions with parties in this country, either lately come from or interested in the Australian colonies.

For Report of the Committee of the Legislative Council, vide Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV. page 5.

The result of these impediments was, that I was unable to introduce the measure into the House of Lords until the middle of July, and that it did not reach the House of Commons till the end of the month. Its further progress having been then objected to on the ground of the late period of the Session, I could not deny the validity of the objection, and the Bill having been limited to the single provision, of exempting Van Diemen's Land from the operation of the 5 & 6 Vict., c. 36, it was agreed to postpone the remainder until next Session The Bill, of which I enclose you a copy in my despatch, No. 99, of the 7th instant, is founded upon the parts omitted—I say founded on those omitted, because you will perceive, on comparing the two Bills, some important changes.

Such having been the difficulties as to time last session; neither is the question at what time I can proceed with this Bill next Session, free from embarrassment.

Were the measure one affecting interests in Great Britain, of course I should be entitled, after the Bill has been printed, and will have been circulated during the recess, at once, on the meeting of Parliament, to propose to proceed with it, but the obvious objection to which that course will be liable is, that time ought to be allowed to receive from the Australian colonies, the expression of their opinion on the subject. The effect, besides, of the delay would be, that I should have the benefit of your observations upon the Bill, as well as those of other persons, and that advantage alone would be decisive in favour of post-

ponement, were it not for the inconvenience (the only one in fact which I foresee) that no Act of the Imperial Parliament, unless passed at the very commencement of next Session, could reach New South Wales, till after the expiration of the Provincial Act 2 Vict. No. 27, for restraining the unauthorized occupation of Crown lands.

Although, therefore, I have given no pledge that I will defer pressing the measure in the early part of next Session, I foresee that I may find it expedient to do so. With a view to this contingency, I have first to request you will give me the unreserved expression of your opinion upon every part of the Bill, as well as any suggestions you may have to offer on points to which it does not extend.

In addition to the general request which I have made for any observations which occur to you, there are some points to which I should wish to direct your attention, specially with a view to eliciting your opinions ; they are,

1st. As to the possibility of trusting to the powers of the Crown to enforce obligations contracted by lessees.

Page 14.

You will perceive by the Report of the Commissioners for Land and Emigration, transmitted in my despatch, No. 100, of the 8th inst., that relying on your authority, they doubt the efficacy of such powers. I have myself come to a contrary conclusion, trusting to the effect of competition on the part of others to obtain stations of which leases may have been forfeited for breaches of covenant, as a material aid in giving effect to forfeitures. The objection, if valid, is good against leases altogether; and, assuming that leases are to be conceded, I would be glad of any suggestions you can offer to diminish the risk attendant upon the concession of them.

2dly. As to the powers necessary for the protection of unsold lands.

In your despatch (Separate) of 2 April 1844, you suggest the framing a measure for the purpose, founded on the four first and the 12th or impounding clause, of the Provincial Act 2 Vict., No. 27. Endeavours were made to meet to the full your suggestions on the Bill in question. It was found, however, so difficult to frame any provisions upon the impounding clauses, that the attempt was abandoned, and it was determined to confine the provisions of it, as you will perceive, to the adoption of the four first clauses of the Colonial Act. I should be glad to learn whether, in your opinion, they are likely to effect the object in view ; and, if not, to be aided by any suggestions you can offer for doing so, more completely in the form, if possible, of clauses ready drawn.

I may add, that no objection was made in any of the interviews which Mr. Hope had with persons connected with New South Wales, to the clauses as inserted in the Bill.

3dly. The question as to the extent of land which ought to be comprised in leases, is one on which I have felt very great difficulty.

The observations made by yourself and the Commissioners of Crown Lands in New South Wales, contained in the Appendix to the Report of the Committee of Council, would lead me to limit them to the homesteads, but on the other hand, I feel myself much pressed by the argument that the homesteads are useless without the runs attached to them, and that it is illusory to give a security of tenure for the one, without a corresponding security as regards the other. I should therefore wish you to consider and report to me your opinion whether the leases may safely be extended, so as to comprise entire runs as well as mere homesteads, the term of the lease being limited to a maximum of seven years.

4thly. You will perceive that the amount to be charged for agistment is fixed in the Bill, objections having been made to the original proposal of leaving the amount to be fixed by the Executive Government.

The sums named were adopted on a collation of all the different means of information at my command ; but I should be glad to have your opinion on the propriety of the amounts.

I should also be glad to know at what sum you would place the rent of homesteads, or homesteads and runs, disposed of to present proprietors without auction. It is possible that a wish may be expressed to have those rents fixed in the Act, and I should wish to be prepared to name what you would consider a proper rate.

Judging from casual observations of parties in this country, and from Major Christie's

Christie's evidence before the Committee of Council, I should infer, that such a payment as, together with the police assessment, would amount to about 50*l.* per annum, would be considered not an unreasonable rent for a homestead and run. I agree with you, however, in thinking that the police assessment should continue to be kept quite distinct from all payments forming part of the Crown revenue.

5thly. In proposing a system of agistment, I did not lose sight of the objection suggested in your minute to the Executive Council of 1844, that difficulty may be experienced in cases in which cattle are depastured partly on purchased lands and partly on Crown lands. The option which is left of continuing payment for licenses will, I trust, obviate that difficulty, but I shall be glad to receive your opinion upon the subject.

6thly. Although the leases which it is proposed to grant under the Bill are confined to land intended for grazing purposes, the question has been raised, whether it might not be advisable to take a power of letting for building purposes on the usual long leases; though I do not anticipate that I shall find it expedient to introduce such a provision, I should be glad to be furnished with your views upon the propriety of it.

For Sir George Gipps' Minute, 30 Sept., *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV., page 32*b*.

7thly. You will perceive that no provision has been made for granting any right of pre-emption. You appear, by your minute of 30th September last, to be prepared to assent to this as a necessary evil, and I perceive that Mr Latrobe, in his answer to the questions contained in Mr. D. Thomson's circular of the 12th of December 1843, is favourable to it.

I should be glad to have any further observations you may wish to offer on this question, though by no means disposed to entertain it favourably, together with any suggestions in the form of detached provisions which Mr. Latrobe may have to offer, to give effect to his own views, as expressed in his letter of 13 February 1844.

A proposal has also been made to me to permit the first discoverers of runs to have leases granted to them without auction, in the same manner as parties who had occupied for five years. On this species of pre-emptive indulgence I should also wish for your opinion.

Page 5.

8thly. You will perceive by my despatch, No. 99, of the 7th August, that although I have not agreed to legislate respecting the powers of the Commissioners of Crown Lands, I do not dissent from your views, as stated in your marginal notes to the Report of the Committee of Council of 20 August 1844, and although I admit the force of the observations made by those gentlemen in their replies to the circular of 12th December 1843, with respect to the difficulties which may occur in preventing the settlement of improper persons on Crown lands, and in protecting aborigines, without summary powers, I think that those difficulties may be obviated by inserting sufficiently stringent provisons in whatever leases may be granted.

For Sir George Gipps' Notes to the Report of the Committee of Council of 20 Aug. 1844, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV., page 5.

9thly. I address you separately on the subject of proposals which have been made for the devotion of part of the land revenue to ecclesiatical purposes.

Though I have enumerated the foregoing points as some on which I am specially desirous of your opinion, you will of course give it me freely in any cases which occur to you as requiring remark.

It is obviously important that I should be in possession of your opinions on this question as speedily as possible, and with that view I trust you will send copies of any despatches you write by way of India, as well as by the regular mail.

In the meantime you will of course understand, as stated in my despatch, No. 100, that it is not my wish to make any change in the system as regards Crown lands, already established by you and approved by my despatch of the 30th January last, though leaving it open to yourself to make alterations as experience of its working may prove to be necessary. The only objection which occurs to me upon it is the inconvenience which may possibly some time hereafter arise from the possession by parties of small freehold estates in detached localities instead of their holding their homesteads, as they would do under a system of leases by a terminable tenure, an objection however, which, of course, as long as security of tenure can only be given by sales, cannot be obviated consistently with the accomplishment of that object.

Page 50. You will receive with this an answer to your despatch, No. 215, of the 30th September 1844. Should you think it advisable, you can communicate that despatch to the Legislative Council. You will, of course, lay before them my
Page 5. despatch, No. 99, of the 7th instant, which will also be printed for Parliament among papers for last Session.

— No. 4. —

(No. 100.)

Copy of a DESPATCH from Lord *Stanley* to Governor Sir *George Gipps*.

Sir, Downing-street, 8 August 1845.

No. 4. Lord Stanley to Governor Sir George Gipps, 8 August 1845.

I enclose, for your information, the copy of a Report of the Commissioners for Colonial Lands and Emigration, on the questions relating to the occupation of waste lands of the Crown in New South Wales under license, raised by the different documents adverted to in it.

Page 5. By referring to the Bill, introduced by Mr. Hope into the House of Commons, enclosed in my despatch, No. 99, of the 7th instant, you will see how far I am disposed to agree in their views. I should be glad, however, to be favoured with your opinion upon any points on which you think it necessary to remark in that report, as also upon the plan for the occupation of Crown lands suggested by Governor Grey, of which I enclose you a copy, and which is referred to in that report.

For Governor Grey's Despatch, *vide* page 38.

I perceive it is very similar to one suggested by Mr. James Macarthur in his evidence before the Committee of the Council. As regards the suggestion made by the Commissioners, that it should be left to your discretion to continue the regulations of April 2d, you will, of course, consider yourself to have that discretion. Indeed it is not my intention at present to require you to make any change in the system which you have established as regards the occupation of Crown land, unless you should yourself find some change expedient.

I have, &c.

(signed) *Stanley*.

Enclosure 1, in No. 4.

Colonial Land and Emigration Office,

Sir, 4 August 1845.

28 Feb. 1845, enclosing Governor's Despatches, Nos. 178, 196, *vide* pages 22, 24.

28 Feb. 1845, enclosing Governor's Despatch, No. 169, *vide* page 21.

8 May 1845, enclosing Governor's Despatches, Nos. 215, 216, *vide* page 26.

We have the honour to acknowledge the receipt of your letters referred to in the margin, relating to the occupation under license of the waste lands of the Crown in New South Wales.

For Sir George Gipps' Despatch, No. 215, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, Part IV., No. 372, page 3.

In our reports of the 30th September last, we submitted to Lord Stanley some remarks upon the regulations published in the colony on the 2d of April, as well as upon others promulgated on the 11th of May in the memorandum delivered to Mr. Iceley, and which formed part of the measure proposed by Sir George Gipps in his despatch of the 3d of April 1844.

4 June 1845, enclosing copy of Memorial and Letter from "Glasgow Association," &c.

The former define the extent of runs and the quantity of stock to be depastured under a 10*l.* license, and will on the present occasion be distinguished as the "Regulations of the 2d of April;" the latter gives the occupier of a run or station a property in his own improvements, and provide for the sale of land beyond the boundaries, and will here be distinguished as the "Regulations of the 11th May."

With regard to the regulations of the 2d April we stated, that if there were to be any regulations at all beyond the boundaries, we did not see how they could be better shaped or more just and fair; and with regard to those of the 11th of May we stated, that we agreed in them substantially, suggesting only one point for consideration, whether the purchaser of a lot, or the purchaser of a certain quantity of land, should not thereupon become entitled for eight years to a right to depasture the adjacent run. We submitted these opinions to Lord Stanley as the result of the best judgment we could form upon the information we possessed, and, upon the facts then before us, we do not see any reason to alter the views we submitted to his Lordship. Since that time, however, a great mass of evidence has reached this country; we now have access to the Reports of the Commissioners of Cown Lands, who appear to have been consulted by Sir George Gipps previously to framing the regulations; we have also the petitions and addresses against the regulations from different parts of the colony, as well as the report of the committee of Legislative Council, with its appendix, and the minutes thereon of the Governor and the Lord Bishop. We, therefore, now possess the means of ascertaining the views of the officers of the Government, whose especial duty it is to superintend the management of the Crown lands, and carry out the details of any measure

measure that may be approved; the opinions of persons whose interests are to be affected by the regulations, and the views of the Governor and some members of his Executive Council since the measures have been made known and publicly discussed. After carefully examining this evidence, and availing ourselves of the opportunities afforded in the interval since our last reports of communicating with persons returned from the colony, who are themselves flock-masters, we will attempt to review the whole subject; although in the outset we would beg to state, that the more we have inquired into the question, the more do we find it beset with difficulties; and that, considering its settlement will affect permanently very extensive interests, we think Lord Stanley would probably desire to do no more at present than, by the aid of Parliament to secure for the Crown a sufficient authority to enforce payment of its legitimate revenue, and for the Government, the means of adopting whatever plan may be decided upon hereafter as being most conducive to the general welfare of the present colonists and the future settlers; postponing until he has had an opportunity of further consultation with the local authorities, his final decision on the various propositions which have been submitted.

We do not propose here to discuss the arguments made use of in the report of the Committee of Council, as they have been ably treated in the minutes of the Bishop and the Governor, which on the 30th September last were laid before the Executive Council, as well as by the Governor in the remarks upon the report he forwarded in his despatch of the 30th of September 1844. We would refer, therefore, to those papers for such remarks as appear necessary upon the leading parts of the report, merely observing, that so far as regards the denial of the right of the Crown to derive any revenue from its unalienated waste lands in colonies, it would be superfluous for us to offer any comments on a principle which has already been so strongly repelled in Lord Stanley's former despatch on this subject, dated the 30th of January last.

Dismissing, then, on the present occasion any further notice of the Report, we proceed to notice the evidence taken before the Committee, which appears to us entitled to every consideration. It must be admitted that it comes chiefly, and perhaps entirely, from persons deeply interested in the question under discussion. But, at the same time, it is also to be borne in mind that they have the largest stake in the welfare of the colony, and that they cannot be ignorant that the mother country is indisposed to advance funds for local Government in her colonies, and that in some way or other they must themselves provide for their wants, including that of labour. The information therefore to be derived from this evidence may be viewed as emanating from interested persons, naturally desirous to pay the Crown as little as possible for the use of the land they require, but who, being engaged in a particular pursuit, are probably of the whole community the best informed as to the practical effect upon their operations of the measures under consideration.

The objects for which the regulations were introduced appear to have been three; first, to equalize the rate of payment to the Crown by the flock-masters; secondly, to improve the condition of the people inhabiting the unsettled districts of the colony; and thirdly, to increase the funds for the benefit of emigration.

With this general statement of their objects we propose to examine first the Regulations of the 2d of April, and afterwards to consider separately those of the 11th of May.

I.—Regulations of 2d of April.

The attempt to limit the size of the runs by the number of square miles they may contain, has excited much opposition in the colony, notwithstanding the discretion vested in the Commissioner of extending the boundaries, if the area they comprize be found insufficient to carry the quantity of stock to be depastured under one license. Before the Committee, the evidence was particularly directed against this part of the regulations. Sir George Gipps, in his minute of the 30th September states, that the objections raised appear to him untenable, and he explains that it was not his intention to limit runs strictly by right lines, and rigidly to adhere to the dimensions prescribed; and that his plan was, that an average 10*l.* run should be one which, as nearly as the natural features of the country would permit, should contain 20 square miles, provided, in ordinary seasons, it would suffice to feed 4,000 sheep, but that if it would not, the run might be increased to any extent necessary to make it feed that number.

The fairness of the principle for which Sir George Gipps contends, namely, that each shall make a payment to the Crown proportionate to the value he receives from the enjoyment of a certain right, has not been controverted; nor, wherever the principle has been admitted that the Crown has the right to take a revenue from the unalienated waste lands, do we understand it to be argued by any one that a payment of 10*l.* for depasturing 4,000 sheep or 500 head of cattle is an excessive charge.

At the same time it must be admitted, that the limitation of runs by the number of square miles of land they may happen to contain, rather than the quantity of water they command, or the quantity of stock they can ordinarily carry, has been the subject of much of the argument against the regulations. The Governor's object was to make the payment dependent partly on the quantity of land occupied, and partly on the number of sheep pastured; and in the end aimed at we should quite agree, for if it could be carried out, a monied payment for the extent of land used would form a much better check than any attempt at pronouncing satisfactory judgments by authority how much the occupants ought to enjoy. But still the squatters have certainly proved a strong case, showing the difficulty of introducing the extent of land occupied as any element of the calculation on which the payment was to be dependent. The Crown Land Commissioners do not quite agree upon the subject; some thinking

thinking it possible to define the quantity to be occupied, whilst others consider it to be impracticable. They agree, however, in thinking it desirable to diminish the quantity of land occupied by some parties, and may be said also to agree in looking less to the extent of land occupied, than to permanent water, and the capabilites of the run to carry stock, as determining its value, and consequently as the measure of payment to the Crown.

Much evidence was given by the witnesses examined before the Committee, as to the great variation in the capabilities of runs. One witness states, that at some periods there are 1,000,000 of acres on the Liverpool Plains, incapable of carrying a single sheep. Another describes a drought as so great in the same district, that on one occasion he could only get a pint of water from a well of 100 feet deep, and that there was no water within seven miles; that he is obliged to occupy two station, having water at one and none at the other. A third states, that during the winter he can pasture 4,000 or 5,000 sheep at one station, which he is obliged to vacate entirely during the summer. A fourth, that of his estate there are 25 miles entirely valueless. Other instances may be found, showing the most remarkable difference in the capabilities of runs in different seasons; and it is difficult to peruse their evidence without being impressed with a feeling, that the value of the run is dependent on its possession of permanent water, and that to ensure this in most cases, a much larger extent of land must be included than would otherwise be necessary; and consequently, that to define by space, with a view to equality of payment, the limits over which a license shall operate, may be attended with considerable difficulty.

But besides that embarrassment which arises from the inequality in the capabilities of the runs, another would probably be encountered by Government, when the space occupied is the measure of payment to the Crown. The power of determining the size of the run is to be left by the regulations (as at present) in the hands of the Crown Lands Commissioners, and through their interference only can the runs be diminished. At present they may be said to be arbitrators between contending squatters as to their boundaries; henceforward they will be the Government check as to the size of the runs upon the whole squatting community; and that portion of it more directly interested in affording assistance to Government to diminish the dimensions of large runs, is unrepresented in the Assembly from whence the Commissioners derive their power. We fear that if any strong sense of the excess of authority entrusted to the Commissioners be entertained by the squatters at the present time, it will be greatly increased when it shall be the duty of the former to attempt to enforce the regulations of the 2d of April, in which the limitation of space is introduced. We observe in the evidence, that much stress is laid upon the arbitrary power the Commissioners possess, and suggestions have been thrown out as to the necessity of associating with them either assessors or a jury, to determine the capabilities of the run. The evidence on these points by the Colonial Secretary appears to be deserving of consideration. We should be sorry to quit this part of the subject without expressing an opinion that the duties these gentlemen have to perform, partly ministerial and partly judicial, must be extremely onerous, and require the exercise of great impartiality, judgment and discretion, and that notwithstanding the searching inquiry that has taken place, very few cases of impropriety of conduct on the part of the Commissioners appear to have been brought forward.

Although we have pointed out the difficulties which we anticipate in enforcing the regulations of the 2d of April, we have no doubt that they were also foreseen by Sir G. Gipps; and we may perhaps venture to entertain some doubt, from the terms of the minute of the 30th of September, whether, if any amendments of the Land Sales Act of 1842 were introduced, he would not have preferred a simpler method of raising a revenue from the occupation of waste land, namely, by an annual payment to the Crown, fixed under the authority of an Imperial enactment, varying in proportion to the quantity of stock depastured, and not according to the quantity of the land occupied. "On this point," he says, "I have had under consideration whether a fixed agistment might not be levied on stock depastured on Crown Lands, instead of either rent or assessment; and, if levied under an act of the Imperial Parliament, it would in many respects, I think, be preferable to either. It is most desirable, that the payment to the Crown for the use of the land should be a fixed one, not likely to be increased or diminished by any authority in the colony." He observes, however, "an agistment would, however, be open to the objection which has already been urged with respect to an assessment, namely, a difficulty would arise in respect of the purchased homesteads, for it would be evidently unjust to levy a Crown revenue on sheep and cattle depastured on a man's own purchased land; it would be difficult, if not impossible, to ascertain how much stock any individual might keep on his own homestead, and how much on the neighbouring lands of the Crown."

Agreeing in what Sir G. Gipps says in favour of an agistment, it is with deference submitted, that as regards the lands beyond the boundaries, and far into the interior, there would not be much inconvenience from the above-mentioned objection against it. Beyond the boundaries at present the Crown owns all land, and for many years the quantity possessed in fee-simple, or of less estate, by individuals (unless leases of the runs be conceded), must bear a small proportion to the Crown lands they occupy, and here, therefore, the objection might be expected to prove not of much practical importance. Within the boundaries, and on the confines, it probably would apply. But at any rate we presume there would be no more difficulty in distinguishing the stock for which the owner would be liable to pay an agistment, than there is at present in distinguishing the stock for which he is liable to pay the assessment under the Local Act; and it should be borne in mind that it is without, and not within the settled districts that it is necessary to establish an easy method of securing to the Crown a revenue, and to the flock-masters a fair mode of occupying the Crown lands. The system of agistment, however, we do not consider to be altogether

gether free from objection. Frauds have been practised sometimes in making out the returns of stock for the purpose of fixing the amount of assessment payable for the police under the local Act; and similar frauds will no doubt be practised in making out the returns for the purpose of fixing the amount of agistment payable for the depasturing of stock. A still more serious defect is, that agistment alone will not have the effect of limiting the size of the runs.

Having pointed out the objections to an agistment which have occurred to us, we will now state its recommendations. It possesses simplicity and equality, which are much in its favour. And it may have a tendency prospectively to curtail an excessive quantity of land occupied by any one individual, inasmuch as it will obviously be a common interest with the squatters, that no more land shall be occupied by one flock-master than is necessary to carry his stock; and among themselves, therefore, it may be hoped that they will facilitate any arrangement which may be thought auxiliary to a fair apportionment of land to the stock to be depastured.

Indeed, at present, in some cases, what is here aimed at is already effected, as the Commissioner of the Clarence states, that, "in making application for a run, the applicant is obliged to state the quantity of stock for which he requires it. A calculation is then made, allowing for three year's increase, of the quantity of land he is entitled to; upon which he receives a letter from the Commissioner, describing the position, extent and natural boundaries of the portion of country he is authorized to occupy."

After reviewing the objections that have been urged against the different systems of securing a rent to the Crown for the occupation of its unalienated waste lands; considering also that some advantages may attend fixing an agistment,—that it is thought by Sir G. Gipps that this may in several respects be preferable,—that the Governor of South Australia has proposed a plan in which the kind of rent to be paid is calculated on an assessment of so much per head for the stock pastured (which is, in fact, an agistment), we think there can be no doubt that the power of fixing an agistment under the authority of an Act of Parliament should be possessed by the Crown. Should the provision which was introduced into Parliament for this purpose hereafter become law, there will be possessed the means of establishing, under the authority of an Imperial enactment, whatever system of occupying Crown lands may be found most suitable to its local circumstances, whether as at present, by charging a fee upon the license, or by issuing the license without fee, and charging a sum upon each animal depastured; and we would submit that this power being obtained from Parliament, the local authorities of each colony should be consulted as to which system would be most advantageous to the interests of the Crown, and of the Colonies.

II.—Regulations of the 11th of May, or the Rules for the Sale of Land beyond the Boundaries.

This part of the scheme was made known in the colony through Mr. Iceley, a member of the Legislative Council, with a view to allay the excitement produced by the regulations of the 2d of April; and Sir George Gipps has stated that, in some degree, the publication had the desired effect. Subsequent events, however, show that the agitation has not altogether subsided. In considering this part of the regulations, it should be borne in mind, that the principles therein recognised were intended to be concessions to the squatters on points which they had long contended ought to be yielded to them. We allude to giving the occupier of a run or station a property in his own improvements, and to affording facilities generally for the sale of land beyond the boundaries. Whether or not they have been so framed as to enable the squatters to take advantage of the concessions, has since been controverted.

Parl. Paper, 1845, No. 267, Part III., page 56.

In the first place, the squatters deny that, with reference to rates of profit, they could afford to pay the amount of the proposed purchases. On this point, therefore, of the effect of the regulations on profits, it may be convenient to refer to some of the leading opinions and evidence.

The Bishop, in his minute of the 30th of September, uses the following expressions: "The simple operation of the system seems to be the following: a squatter has a run for 4,000 sheep; for this he pays annually a license fee of 10*l.* and an assessment on the stock amounting to 16*l.* 13*s.* 4*d.* If he desires to obtain secure possession of his run for eight years, he may purchase the best and most desirable half section upon it for 320*l.* Let it be supposed, that during the eight years for which this station is secured to him, he makes no return of profit whatever from the purchased land, and that he pays 7½ per cent. or about 24*l.* per annum on the capital sunk in the purchase, the total demand upon him is 50*l.* per annum, or 3*d.* on each sheep. This would leave, under present circumstances, a handsome annual profit upon the price paid for the sheep, which may be assumed at 1,000*l.* Thus the occupier of such station has obtained possession of a freehold property which, under good management during eight years, may be made, at the close of that interval, to yield an independence to his family."

For ourselves, we would beg to state, that we do not profess to point out what may be considered to be the fair average of the flock-masters' profits. We believe that very much larger profits may be made at some stations than at others, amounting, for instance, in the case of Mr. Edward Hamilton to about 424*l.*, and that of Mr. Bradley to about 400*l.* upon 4,000 sheep; whilst, on the other hand, we have seen statements showing that 4,000 sheep would not, even in favourable circumstances, at the present low rate of wages, and where the greatest

Parl. Papers, 1845, No. 267, Part III., pp. 46. 50.

greatest economy is practised, produce a larger profit than 100*l.* per annum. This wide discrepancy may, in a great measure, be accounted for by the different positions of the run, involving considerations which materially affect the profits of the flock-master, such, for instance, as the distance of carriage both for his wool and his stores; distance from a market for his stock, amounting, in some cases, to an absolute bar to its sale, and a higher rate of wages, varying in proportion to the distance from the settled parts of the country. We think, therefore, that, as locality exercises so much influence on the profits of grazing establishments, it must be extremely difficult, if not impossible, to attempt to fix any satisfactory average rate of profits; and, consequently, that a calculation founded upon any such average, would not show accurately what may be the effect of the regulations.

It is, however, against the regulations of the 11th May, if compulsory, that the opposition at present is chiefly directed. The squatters contend that it is hard that speculators from Sydney should be able to buy them out at auction, and that the burthen imposed on them of purchasing a fresh block every eight years is too heavy; and they now demand, if the regulations are to be enforced, that there should be annexed to the purchase of each half-section a right to a lease of the adjoining run. This, therefore, leads us to notice the opinions which have been received from the local authorities on the subject of leases.

In submitting the regulations to the Secretary of State, Sir George Gipps stated, that it was not his intention to give the purchaser of 320 acres an unconditional right to the run, but an assurance only that, unless for any cause of objecting to re-issue his annual license, he would not be disturbed for eight years in the possession of the run. The suggestion of converting this assurance into a lease, emanated from this Board, but its adoption was left by Lord Stanley entirely to the discretion of the Governor. The objections entertained by the local authorities to granting leases of the run were not then known. It would now appear that of the 14 Crown Lands Commissioners, who were consulted upon the regulations by Sir George Gipps, nine are decidedly against granting leases of the run, and the other five, although not expressing themselves so decidedly, can scarcely be said to have given opinions in favour of leases. The objections they urge are, that it would be difficult to restrain underletting, and the location of persons beyond the boundaries to whom, from their character and position, the Government have always refused to grant licenses; that it would add to the expense of defining the quantity of land under lease; that so much right of tenure would be given to the squatters as to cause very serious inconvenience to the Government, particularly as regards the protection of the aborigines, the feeling of some of the settlers being so strong against the natives, that they would not allow an aboriginal to stay upon or even to cross their station. The Commissioners, however, admit that the present system requires revision, and that something should be done to equalize the rate of payment to the Crown for depasturing licenses beyond the boundaries, and improve the social condition of the squatters.

It also appears that Mr. Latrobe, the Superintendent at Port Phillip, is of opinion that the present system of issuing yearly licenses of occupation, under certain regulations, has worked very well for the interests of the Crown, and has not proved unfriendly to those of the settlers; and that he is not prepared to advocate the issue of leases for a longer period, especially at a time when, from extraordinary circumstances, property of every description is constantly changing hands.

We will conclude the subject of leases by an extract of Sir George Gipps's minute of the 30th of September, which shows that his opinions have undergone no change. He says, "against the granting, however, of long leases, of leases of any longer duration than a year, I retain my former objections unaltered, and must continue to retain them until it can be shown to me that there is some way in which the payment of rents can be enforced." Such then being the opinions of the local authorities, so adverse to granting squatters leases of their runs, we are bound to point out that this part of the question assumes a different aspect from that under which we threw out a suggestion of a lease for eight years; and we apprehend that, without consulting the Governor again, or, at any rate, receiving his report on the discretionary authority which was then conveyed to him, Lord Stanley would not, in opposition to his views, make any positive promise on the subject in this country.

But if the purchase of a half section is not to give a right to a lease of the adjoining run, and if the possession of the former without the latter be of little or no value to the squatter, the difficulty at once arises, as to what is to be done to give persons a more permanent interest in the soil? It is admitted by all, that it is desirable to give them some greater feeling of security, and thereby, if possible, some more regular habits than they possess under the present system, which is said to interfere both with agricultural and with social improvement.

As regards the former class of improvement, this complaint cannot wholly be admitted. No doubt, since the publication of the late regulations, a demand has been urgently pressed by the squatters for what is called fixity of tenure, in order to obtain leases of their runs for long terms, and thus to a great extent to become independent of the Crown; and the plausible argument has been put forward, that no capital can be invested on tenure so insecure as the present. But this position is denied by impartial persons, and even by some who are themselves flock-masters. The Colonial Secretary, in his evidence, says, "I look upon the tenure of lands now held by licensed occupants beyond the boundaries, to be of a much better and more stable character than is usually regarded. It is, in fact, nearly perfect against all parties except the Crown, and may be maintained by action in the courts of justice. As against the Crown, it is not by any partial decision that a party could be removed from his station." A gentleman of much ability, formerly himself a flock-master,

who

who has favoured us with some remarks on the subject, says, "It is my opinion that the present insecure tenure, as it is called, of the squatters acts only, where it ought, *in terrorem* over the evil disposed, and never deters the industrious and well disposed from any work of improvement which he finds it his interest to carry on." Again, we have heard of a case in which a large sum has been invested in improvements on Crown lands which the Crown might any day seize and sell, although within a very short distance a freehold title to land might have been acquired, by paying the owner a trifling sum per acre; the only advantage possessed by the land selected for improvement without a title, over that which could have been purchased with a title, being its more convenient position with reference to the limits of the adjoining run. Still we are by no means desirous to press this argument unfairly, or to deny that much valuable evidence was received by the Committee, tending to prove that advantages to agriculture would attend the acquisition by the squatter of a more secure tenure. The foregoing remarks have been submitted more with a view to show that, for the purposes of agriculture, the necessity of the squatter having a securer tenure has been much over-rated; although we fully concur in the general opinion that his social condition requires improvement, and this probably cannot be effected unless some greater security of tenure be afforded him.

On the social evils of the existing system, the evidence is only too complete. One witness called before the Committee states that Sunday is so little respected in his district, that the day of the week is sometimes unknown to the workmen. Another, in answer to the circular from the Committee says, "marriage and morality usually go hand in hand. Here the former is most effectually discouraged on the score of comfort and decency. As for religion, I may state that I have lived three years and a half in a district populous enough to support six public-houses within 10 miles; that during the above period a Protestant clergyman has but three times paid a flying visit to the neighbourhood, and Divine service has not been performed in the part I allude to. Our Protestant servants have never had an opportunity of attending Divine service, and under the present system, are never likely to do so. Bad as this is, we are pre-eminently fortunate as squatters in even thus seeing the passing shadow of a clergyman." This picture is drawn by a gentleman of good education and of good family connexions in this country. It can only be hoped that it may not be universally applicable. The continuance, however, of a system producing such results cannot but be considered a great calamity. The Governor has long ago declared that it is desirable to give the squatter some greater feeling of security, and thereby, if possible, some more regular habits than he at present possesses. The Bishop has treated it as essential to religious and moral objects; and it is earnestly asked for by the squatters themselves. But if they are to have greater security in the tenure of land with the means also of pasturing stock, it cannot be given without reducing the price of land to an almost nominal price, except in one of four ways: either 1st., by the Crown's selling a part of a run with a qualified assurance to the purchaser of holding the remainder for a definite period; or 2dly, by adopting the same plan, substituting only a lease of part for a sale; or 3dly, by leasing the whole run for a definite term; or, lastly, by selling land with the right annexed of pasturing a certain quantity of stock on neighbouring waste lands for an indefinite period.

To the details of the first, which is the plan contemplated by the regulations of the 11th of May, the objections urged by the squatters, connected chiefly with the price to be paid in order to command the run, have been already mentioned. Another objection which has been raised is the alienation of large tracts of land by sales of half sections, if they be sanctioned, in whatever localities the occupier of a run may choose to select his land. On this point it is remarked by one of the Crown Lands Commissioners, that "great precautions must be used in permitting the selection of small portions, for without a fair division of water frontage, and a purchaser having a power of selecting, he will naturally become the occupier of a large tract of country to the great injury of others." By another, speaking of the occupiers effecting purchases, it is said, that "it appears possible, that after he shall have purchased the homestead or otherwise secured it, unless he be compelled to rent from the Government a certain portion of the land adjoining, extensive tracts may be rendered valueless to the Government, where the value of a run depends chiefly on the water or other natural advantages of the home station." And in some localities an indiscriminate right of purchase would lead to even more prejudicial results, which cannot be more forcibly exemplified than by the evidence of the Commissioner of the Clarence River. He says, "in the event of its being intended by Government to grant a right of purchase, it appears to me that such a regulation should not apply in certain localities; for instance, on the Clarence, (a large navigable river), the most eligible site for a town is at present taken up by buildings and inclosures of two or three shopkeepers. The Richmond is similarly situated, and, I dare say, there are particular situations in most districts bordering on the sea, that ought to be reserved." To a certain extent we think the regulations of the 11th of May would enable the Government to prevent this evil, for we do not understand them to be intended to confer on the squatter an unlimited right of selection.

But still we apprehend that, for the following reasons, in any plan of promoting the purchase of sites chosen by the squatter, a great amount of inconvenience must be expected almost inevitably to arise, from the manner in which the country is already occupied. In most cases when the present occupiers avail themselves of the right of purchase, the sites which they may be expected to select, will be the homesteads on which improvements have been effected. These are generally at a considerable distance, one from the other; as the flock-master has probably fixed his homestead as near the centre of his run as the access to permanent water will permit. His neighbours have done the same, and consequently they

they are living at a considerable distance apart. Now, supposing that each were to avail himself of this permission to purchase a homestead, is it possible that such a system of settlement can, within any reasonable period, give the squatters what they themselves wish for, viz., churches, schools, and an improved condition of society? It is indeed, as has been observed by one of the Commissioners, not desirable to attempt to confine the squatters within limits narrower than is compatible with the success of their pursuits, and it is impossible to enforce concentration on those whose pursuits are necessarily dispersive. But considering in how many cases dispersion is said to have taken place, beyond what is actually required for depasturing stock, it may be questionable whether injurious results will not follow, even to the squatters themselves, by any facilities being afforded to fix them permanently in their scattered and dispersed locations.

Leaving with these remarks the first of the plans we enumerated, viz., that of selling part of the run, with an expectation of holding the remainder for a definite period; we proceed to the second, or that of leasing part of the run with a similar expectation. This would allow the squatter more easy terms of payment, and would secure the Government against the danger above noticed, of irrevocably alienating lands in situations that might prove injurious; but on the other hand it would be open to the objection which the Governor has so strongly urged, of the difficulty of obtaining payment of rents. And the third plan, or a lease of the whole run, is open to the various other objections which we quoted from the local authorities, of a want of control over the occupants of the lands.

This brings us to the consideration of the last mode suggested of giving to the squatters greater security of tenure; viz. by selling land with a right annexed of pasturing a proportionate quantity of stock. Captain Grey's plan, which we have reported upon separately this day, may to a certain extent be considered to come under the present description, but without detailing the particulars, there are some points on which we think it is open to objection.

If the country beyond the boundaries had now to be laid out for the first time, it may be doubted whether it would not be a great improvement, instead of selling small pieces of land in places seldom less than seven miles apart, or generally much more, that the Government should cause to be surveyed and offered to sale a few contiguous sections of land in sites the most eligible for cultivation, annexing to them for an indefinite period a right of pasture upon the neighbouring unalienated waste lands of the Crown for a certain quantity of stock, in proportion to the land purchased. The difficulty, however, still occurs as to the mode of determining within what limits the stock shall be pastured, as we apprehend that in New South Wales for sheep farming, it is necessary that each flock-master should have an exclusive right of depasturing a particular tract of country. This therefore entails the necessity of a demarcation of the boundaries of each run. If, however, any stock should be fed on Crown lands without payment to the Crown, the quantity being regulated by the extent of land purchased, the boundaries of the respective runs within any given district, would perhaps in practice, be ascertained by mutual arrangement of the land purchasers or freeholders, under the superintendence of the Commissioners.

It is very desirable that these officers should continue to exercise, as at present, entire control over the unsold Crown lands, and thus be able to check abuses, the occurrence of which is so much apprehended by the local authorities, if possession of the unalienated land should be given up to the occupiers under leases. We observe, that it has been suggested by some of the squatters themselves, that assessors should be appointed to act with the Commissioners. We are not aware of the views of the local authorities on this point, but Lord Stanley possibly may wish to know whether there would be any objection to associating two magistrates with the Commissioner, to act as assessors, whose authority, however, respecting Crown lands should terminate, immediately they cease to be in the commission of the peace.

Whenever the flock-master, under the plan now under consideration, might wish to graze more stock than was allotted to his purchased land, which would generally be the case, he would be able to do so at distant stations, under the system of license and agistment, temporary buildings being erected upon the waste for his servants and his own occasional residence. The quantity of stock to be pastured by virtue of the purchase of any freehold land, is a point which would, of course, have to be determined by the local authorities.

On the lands they purchased, the flock-masters would be able to erect their permanent dwellings, to draw round them the necessary adjuncts of civilized life, and carry on cultivation, whilst their flocks would graze upon the waste at distance. It is very possible that these would be so far off, that the flock-master might frequently have to absent himself from his permanent home, and to make use, as at present, of temporary buildings; but this would, at any rate, be far better than the actual condition of the squatters in New South Wales, and should hardly, perhaps, be felt by them as a great sacrifice, considering the advantages their families would derive from living amongst small but civilized communities, the formation of which, if practicable, would be so conducive to the social improvement of the people.

We are well aware, however, that in New South Wales the case is very different from that which we have supposed of a previously unoccupied country. Even, therefore, if judged otherwise eligible, the scheme we have alluded to may not admit of adoption in this colony; but we should be glad, if in common with Captain Grey's plan, it were brought under Sir George Gipps's notice, with a view to receiving any remarks and opinions it may elicit from him, who has such ample knowledge, and can so readily judge of the expediency or practicability of any suggestions on the difficult questions involved in the present subject.

If the foregoing report be adopted, we believe that the practical steps to be taken would be—

1stly. To put Sir George Gipps in possession of the Bill that has been submitted to Parliament, and to invite his opinion on the question of substituting under its provisions, if they hereafter become law, a payment to the Crown, at a certain rate per head on the stock pastured, instead of a fixed payment for the use of the land.

2dly. To leave it to his discretion, in the meanwhile, to continue the regulations of the 2d of April respecting pasture licenses, as those regulations have been explained by his despatches.

3dly. To inquire whether his views are in any respect modified as to the regulations published on the 11th of May, on the sale of lands beyond the boundaries; and, finally, to request his opinion upon the expediency of Governor Grey's plan, or of the foregoing suggestions, about selecting particular sites for sale, and upon the applicability of any part of these plans to the circumstances of the districts beyond the boundaries in New South Wales.

We have, &c.

James Stephen, Esq.,
&c. &c. &c.

(signed) *T. Fred. Elliot.*
Alexander Wood.

CORRESPONDENCE referred to in Lord *Stanley's* Despatch to Sir *George Gipps* of the 8th August 1845, No. 100, and the REPORT of the Commissioners of Colonial Lands and Emigration, of the 4th August 1845.

No. 5.—Sir George Gipps to Lord Stanley, 11 August 1844, No. 169.
No. 6.—Sir George Gipps to Lord Stanley, 22 August 1844, No. 178.
No. 7.—Sir George Gipps to Lord Stanley, 8 September 1844, No. 196.
No. 8.—Sir George Gipps to Lord Stanley, 30 September 1844, No. 216.
No. 9.—Memorial of the Glasgow Association.
No. 10.—Memorial of Merchants and others connected with Australia, held in London.
No. 11.—Governor Grey to Lord Stanley, 31 January 1845, No. 19.

--No. 5.—

(No. 169.)

No. 5.
Governor Sir George Gipps to Lord Stanley, 11 August 1844.

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
11 August 1844.

My Lord,

I HAVE the honour herewith to forward copies of two papers relating to the occupation of Crown lands under depasturing licenses, which have been laid before the Legislative Council of this colony, and printed by its order.

Return, No. 1. For Correspondence referred to, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV. pp. 275-292.

The first of these papers contains copies of the correspondence which, prior to the issue of the notice of the 2d April last, took place between the local Government and the officers whose duties connect them with the administration of the lands of the Crown beyond the boundaries of location. The second paper contains abstracts of returns called for by the Government, after the issue of the same notice.

Further Return, No. 2. For Abstracts of Returns, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV. pp. 264. 274.

The opinions given by the Commissioners of Crown Lands in the first set of papers, vary considerably as to the evils of the present system of squatting, and the amendments of which the existing regulations for the occupation of Crown lands are susceptible. I will only remark on them, that the inequalities and abuses of the system, are much less prominent in the four districts of Port Phillip, than in the eleven which belong to the rest of the colony; a circumstance which is easily accounted for by the consideration, that the system of squatting commenced much later in the Port Phillip country than elsewhere, and that it was, from its commencement, or very nearly so, under the control of Government officers, who were themselves over-watched and controlled by the Superintendent of the district (Mr. Latrobe.)

The second paper contains returns of the largest and smallest occupiers of Crown lands, and owners of stock, in the fifteen squatting districts; and is intended to exhibit the inequalities of the present system. An explanatory note is prefixed to the tables, and to it I would beg leave to request particular attention. It shows, amongst other things, that some individuals hold eleven hundred times as much land as others do for the same money (10*l.* per annum); that some occupiers feed 180 sheep on Crown lands for 1*s.* a year, whilst others

pay nearly 1 *s.* a year (10½ *d.*) for every sheep depastured by them; some pay one halfpenny a year for a cow; others 7 *s.*

Such being the case, it cannot be matter of surprise to any one that the great squatters of New South Wales are opposed to the changes proposed by me in the notice of the 2d April last, and reported in my despatches to your Lordship of the 3d April (No. 75) and 1st May (No. 94.)

For Sir George Gipps' Despatch, 3 April, No. 75, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III, p. 3. Ditto, 1 May, No. 94. Ditto, p. 50.

Nothing important on the subject of squatting has occurred in the colony since the date of the despatch (No. 137, of the 9th July last) in which I reported to your Lordship that a committee of the Legislative Council, composed exclusively of members of the Pastoral Association, had been formed to inquire into and report on the grievances of the colony in matters connected with land. The committee has not yet reported.

I have, &c.
(signed) *Geo. Gipps.*

— No. 6. —

(No. 178.)

No. 6. Governor Sir George Gipps to Lord Stanley, 22 August 1844.

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley.*

Government House, Sydney,
My Lord, 22 August 1844.

I HAVE the honour herewith to forward the following petitions, which have been placed in my hands for transmission to Her Most Gracious Majesty:

Sydney Petition, (and copy on paper) No. 1.

1. A petition from certain stockholders, and other inhabitants of the city of Sydney.

Petition, New England and Port Macquarie, (and copy on paper) No. 2.

2. A similar petition from the stockholders and inhabitants residing at New England and Port Macquarie.

Maitland Petition, (and copy on paper), No. 3.

3. A similar petition from the stockholders and inhabitants residing in Maitland and its neighbourhood.

These petitions are all to the same effect; indeed copies of each other, and have grown out of the meeting of squatters which was held at the Royal Hotel in Sydney on the 9th April last, as reported in my despatch, No. 84, of the 16th of the same month.

For Sir George Gipps' Despatch, 16 April 1844, No. 84, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III. p. 17.

The prayer of the petitions simply is, that Her Majesty will divest herself of all control over the Crown lands of the colony, in order that they may be held by the present occupants, for a period of not less than 21 years, and subsequently purchased by the same parties, at a price to be fixed in the colony, without reference to Parliament.

My former despatches to your Lordship will sufficiently show, that I feel it my duty to urge on Her Majesty's Government, the most strenuous resistance to these demands.

I have, &c.
(signed) *Geo. Gipps.*

Enclosures in No. 6.

(No. 1.)

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble PETITION of the undersigned Stockholders and other Inhabitants of the City of Sydney, in the Colony of New South Wales:

Most humbly showeth,

Encls. in No. 6.

That the publication in the "Government Gazette" of the 2d April 1844, of a Government notice (a copy of which is appended to this petition, marked (A.) on the subject of licenses to depasture upon the Crown lands beyond the boundaries of the colony, has drawn the attention of your Majesty's petitioners very forcibly to the precarious tenure upon which these lands are occupied, and to the injurious consequences thereby accruing to a very large amount of colonial property, more particularly to the staple export—wool.

That these waste lands, unlike the waste lands of other colonies, contribute more to the exports of the colony than those which have been already appropriated and reclaimed, inasmuch

inasmuch as two-thirds of the sheep and cattle in the colony are now depasturing thereon; Appendix (B.)

That it will appear from the documents appended hereto, marked (C.), that these waste lands are at present occupied by licensed graziers, subject to the annual payment of 10 *l.* for a license to depasture stock upon them, and the assessment of 1 *d.* per head for sheep, 3 *d.* for cattle, and 6 *d.* for horses, imposed under the distinct understanding that the proceeds of such license and assessment should be appropriated "for the mutual protection and security of all persons lawfully occupying or living upon the Crown lands beyond the limits allotted for location," and to these purposes only.

That it will appear to your Majesty, from the statement in Appendix (D.) that the sum thus realized under such license and assessment has exceeded the expenses of "mutual protection and security" by 72,285 *l.* 12 *s.* 3 *d.*; and your Majesty's petitioners would further urge, that the exacting of the above surplus, and applying it to any other purposes whatever, is a serious grievance, and must be regarded as a breach of faith.

That your Majesty's petitioners cannot believe that it was the intention of your Majesty, after having, by the 5 & 6 Vict. c. 36, appropriated the revenue arising from the sale of Crown lands in Australia to the purposes of immigration and local improvements, and having, by an Act of the same Session, the 5 & 6 Victoria, c. 76, placed the ordinary revenue of the colony at the disposal of the Legislative Council, to allow a third kind of revenue to arise, namely, that now sought to be derived from the licenses to occupy Crown lands, which should be exempt from the appropriating operation of both these Acts, and placed at the absolute disposal of the Executive Government.

That your Majesty's petitioners are ignorant to what particular purposes the surplus of former years, and the sums recently demanded from them have been, and are to be applied; but they can imagine none which would not be unconstitutional and oppressive. If these funds be applied to defray the expense of immigration, your Majesty's petitioners would submit that their occupation of Crown lands is of so precarious and transitory a nature, that on account of it they cannot in fairness be called upon to contribute to the peopling and improvement of the lands, from the occupation of which they are liable to be driven by a single arbitrary proclamation.

That if these sums be applied by the Executive to the purposes of the ordinary expenditure, as stated in a Return of the Way and Means for the year 1844, laid by his Excellency the Governor before the Legislative Council, your Majesty's petitioners submit that it is impossible that two independent powers of taxation can coexist in a free country. The Government is already provided with a civil list of 81,000 *l.*, over which the Legislative Council of the colony has no control. And if to this be added a power of levying imposts upon the occupiers of Crown lands by proclamation, the control which your Majesty graciously intended to give to your Majesty's petitioners over the expenses of their own Government will be completely eluded, and endless dissensions between the representatives of the people and the Government be the inevitable consequence.

That your Majesty's petitioners would further urge upon your Majesty the following considerations.

1. That these lands, generally situated at remote distances from the settled parts of the colony, have in most instances been discovered and located by their present occupants at great personal hazard and cost to themselves, they being, in point of fact, the pioneers of civilization, and giving, by their occupation, a value to land which would be otherwise worthless.

2. That they believe that no similar charge is made in any other British colony for the occupancy of Crown lands for grazing purposes.

3 That these imposts are most ungracious and impolitic at the present time, when the colony has scarcely begun to recover from a series of disasters extending over a period of four years, and involving all classes of the community in the deepest embarrassment and alarm.

4. That the necessity of the stockholders are at present felt with such unprecedented severity, that upon a low estimate of the rate at which the operation of boiling down is now proceeding, merely for the sake of tallow, it is calculated that considerably more than one million of sheep must be destroyed during the course of the present year; and it must therefore be apparent, that if any further increase be made to the burthens of the settlers, such additional exaction must tend to the annihilation of the greater part of the stock of the colony, and thus seriously diminish the annual export of their most valuable commodity—wool.

5. That it will be obvious that no man would invest his capital in permanent improvements, whether of buildings, inclosures or cultivation, upon land from which, at the end of the year, or indeed at any moment, he might be ejected without notice or compensation.

6. That much as your Majesty's petitioners deprecate the new regulations on account of their immediate effects, they consider these as a trifling evil compared with the feeling of utter insecurity which they are calculated to create. That impost which is doubled or trebled to-day may be subjected to a similar augmentation to-morrow, and the same want of confidence in the good faith or stability of the Government, which proves so effectual a check to the investment of capital in despotic countries, will cripple the energies and blight the hopes of New South Wales.

7. That such a state of insecurity presents an almost insuperable obstacle to the domestication of families in the interior, and precludes the possibility of any provision being made for the maintenance or accommodation of ministers of religion, or for the education of youth. And whilst this privation has a demoralizing influence on the character and conduct of the

European population, those means which might be made applicable for the civilization of the aboriginal natives are placed completely in abeyance.

That your Majesty's petitioners, without venturing to dispute your Majesty's title to these waste lands, would yet most respectfully submit that your Majesty holds them in trust for your Majesty's subjects the inhabitants of the colony, and that in order that that trust may be efficiently discharged, it is necessary that it should be delegated to those who have the deepest interest in the result, and the greatest local knowledge to guide them, such a body your Majesty has been graciously pleased to provide in the Legislative Council of the colony, and it is in their hands and their hands only, that in the opinion of your Majesty's petitioners, the management of the waste lands, and the revenue arising from them, can properly be placed.

Wherefore your Majesty's petitioners humbly pray, that your Majesty will take the premises into your Majesty's gracious consideration, and with a view to remedy the evils complained of, will cause an Act to be passed, repealing so much of the Act of Parliament for the government of the colony, 5 & 6 Vict., c. 76, as prohibits the appropriation of the territorial revenue by the Legislative Council. And further, repealing so much of the 5 & 6 Vict., c. 36, as relates to the minimum price, to the letting, and to the general control of the Crown lands, and to the proceeds and revenues thereof, and to transfer all powers and authorities over the said lands, and the revenues arising therefrom, which by either of the said statutes or otherwise are vested in the Governor for the time being, to the Governor and the Legislative Council of New South Wales, that they may establish a scale of minimum prices for Crown lands, according to their respective situation and quality; and that a fixed term of occupation (which your Majesty's petitioners humbly submit should be conceded to all persons at present occupying the said Crown lands, and which should not be of less duration than 21 years), may be substituted for the present short and precarious tenure, coupled with such reasonable right of pre-emption to the present occupier or lessee during his tenancy, at the minimum price thus to be fixed as to the said Governor and Legislative Council may seem meet.

And your petitioners will ever pray.

[Here follow (4,379) four thousand three hundred and seventy-nine signatures.]

(No. 2.)

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble PETITION of the undersigned Stockholders and other Inhabitants of the Colony of New South Wales, residing at *New England* and *Port Macquarie*.

(Similar to the Petition of the Stockholders and Inhabitants of the City of Sydney, *see* p. 22.)

[95 signatures.]

(No. 3.)

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

The humble PETITION of the undersigned Stockholders and other Inhabitants of the District of *Maitland* and its neighbourhood, in the Colony of New South Wales.

(Similar to the Petition of the Stockholders and Inhabitants of the City of Sydney, *see* p. 22.)

[175 signatures.]

— No. 7. —

(No. 196.)

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

No. 7.
Governor Sir George Gipps to Lord Stanley, 8 September 1844.

Government House, Sydney,
8 September 1844.

My Lord,

I HAVE the honour herewith to forward a petition, which has been addressed to Her Majesty by certain "Magistrates, Landholders, Graziers and others, resident, in the District of Penrith, in the counties of Cumberland and Cook, in New South Wales."

This petition is to the same effect as those which were transmitted with my despatch, No. 178, of the 22d ultimo, and it is signed by 104 persons.

I have, &c.
(signed) *Geo. Gipps.*

Enclosure

Enclosure in No. 7.

To Her Most Sacred Majesty VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith. Encl. in No. 7.

The humble PETITION of the undersigned Magistrates, Landholders, Graziers and others resident in the district of Penrith, in the Counties of Cumberland and Cook, in New South Wales.

Showeth,

That your Majesty's dutiful and loyal subjects in the colony of New South Wales, have seen, with alarm and distrust, the publication of a Government Notice, a copy whereof is appended to this petition, whereby his Excellency the Governor, with his Executive Council, only directs alteration in the regulations respecting the temporary occupation of the waste lands beyond the limits of location, and throws on great numbers of your Majesty's petitioners, occupants under license from the Government, an increased amount of fees for their licenses, far beyond their power to raise by the profits of such occupation.

That licensed occupiers of the said waste lands already pay a fee of 10 *l.* per annum for a license (intended as a certificate of character) to occupy the same, without reference to extent, which amounts now to upwards of 16,000 *l.* per annum, and also contribute to the revenue an assessment on the number of sheep, horses and cattle they there depasture, which amounts to upwards of 17,000 *l.* per annum, and which latter your Majesty's petitioners have paid as imposed by the Legislature of the colony, although it far exceeds the cost and value of the protection for which it was granted.

That your Majesty's petitioners humbly submit that the fair and equitable method of proportioning to their extent the sums paid for such occupation of the different stations would be through the assessment on the number of stock depasturing thereon; and your Majesty's petitioners believe, that the present expedient for increasing the fees on licenses has been had recourse to from a knowledge that your petitioners' representatives were too well acquainted with the means of the colonists in their present depressed state to consent to any increase on their burthens.

That your Majesty having been graciously pleased to concede to the colonists a Council, two-thirds whereof are elected by the people, the boon is valueless in the eyes of your Majesty's petitioners, if a power of exacting an independent revenue under the title of an increase to a fee be allowed to the Governor and Executive Council only, as it will be in his Excellency's power by having recourse to the same, to render inoperative any beneficial measure passed by their representatives for lessening the public burthens, and will thus continue that want of confidence in the good faith of the Government, which, recently engendered, has crippled the energies and darkened the prospects of the colony of New South Wales.

That your petitioners are far from imputing to your Majesty's advisers a desire knowingly to entail ruin and want on them and their offspring, but they humbly suppose that the remote distance of this colony from Great Britain may explain the cause of her real interests being so ignorantly and destructively tampered with as they have been (among other things) by the sudden cessation of transportation and assignment, the misappropriation of the land fund to other than immigration purposes and its lavish expenditure, the raising the minimum price of Crown lands to the prohibitive amount of 12*s.* and then of 1 *l.* per acre, and the regulations now complained of.

But your Majesty' petitioners, who yield to none of your Majesty's subjects in unfeigned loyalty and attachment to your Throne and Person, respectively submit, that to the Governor and Legislative Council of the colony might safely be confided the regulation and control of the Crown land revenues, under a well matured system, for the general national benefit.

Your Majesty's petitioners therefore most humbly pray your Majesty will be graciously pleased to take the same into your consideration, and to grant to the colonists of New South Wales the exercise of the right enjoyed by their fellow-subjects in the mother country, of being taxed only by a Representative Assembly, and also with a view to convert the great but now dormant resources of the colony derivable from its waste lands to the utmost national advantage; that your Majesty will be pleased to commit to the charge of the Governor and Legislative Council of the colony the control and administration of the same, under a well-defined and judicious system, embracing a modification of the minimum price and terms of sale of Crown lands within the limits of location, as also the tenure of occupants beyond those limits, upon such liberal terms as may renovate and sustain a healthy and permanent immigration, and thus promote the best interests of the empire at large.

And Your Petitioners, as in duty bound, will ever pray.

[104 signatures.]

— No. 8. —

(No. 216.)

No. 8.
Governor Sir George Gipps to Lord Stanley, 30 September 1844.

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
30 September 1844.

My Lord,

For Sir George Gipps' Despatch, No. 215, 30 September, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV. p. 3.

HAVING with my despatch, No. 215, of this day's date, transmitted to your Lordship a copy of the report made to the Legislative Council by a Select Committee appointed at the commencement of the present session, to inquire into grievances alleged to exist in the administration of the lands of the Crown, it is now my further duty to inform your Lordship, that I deemed it proper to lay the report of the Select Committee before my Executive Council, and to request that the members of the Council would either collectively or individually state, whether the contents of it were of a nature to induce them to modify in any manner the opinions which they expressed in respect to the occupation of the lands of the Crown under depasturing licenses, when the subject was before them in the month of March last.

16th and 30th September 1844, with two papers appended.

I enclose copies of minutes made at two meetings of the Executive Council held for the consideration of the subject—as, also, copies of two papers—one placed on the minutes of the Council by the Lord Bishop of Australia, and the other by myself; and I have respectfully to request, that these papers may be taken into consideration with the report of the Select Committee of the Legislative Council.

The other members of the Executive Council have not yet placed on the minutes any expression of their opinion on the subject.

I have, &c.
(signed) *Geo. Gipps.*

Enclosure in No. 8.

Encl. in No. 8.

EXTRACTS from Minutes (Nos. 44/23 and 44/27) of Proceedings of the Executive Council on the 16th and 30th September 1844, relative to a Report from a Select Committee of the Legislative Council "on Crown Land Grievances."

Minute No. 44/23 D.—16 September 1844.

Members present:—His Excellency the Governor, his Excellency the Commander of the Forces, the Right Reverend the Lord Bishop of Australia, the Honourable the Colonial Secretary, the Honourable the Colonial Treasurer.

His Excellency the Governor mentioned to the Council, that in a report of a Select Committee of the Legislative Council, appointed "to inquire into and report upon all grievances connected with the lands of the colony," &c., which had been recently printed by order of the Legislative Council, the additional notice respecting the occupation of Crown lands issued, under the advice of the Executive Council, on the 2d April last, were very strongly condemned; and the chairman of that committee had given notice that, when the report came under the consideration of the Legislative Council, he should move the following amongst other resolutions:

"That, in the opinion of this Council, the depasturing regulations published by his Excellency the Governor on the 2d April 1844 are impracticable in principle, and oppressive in detail, and ought to be recalled."

"That the recommendations said to have been transmitted by his Excellency the Governor for the consideration and approval of the Right honourable the Secretary of State, by the 'General Hewitt,' on the 3d April 1844, are founded on principles which cannot be worked out without the utter ruin of the grazing interests."

His Excellency therefore felt it his duty to lay this report, with the voluminous evidence appended to it, before the Council, in order that the Council might consider whether there was any thing in those documents which would induce them to modify the opinions which they entertained, when they advised the issue of the regulations of the 2d April 1844.

Minute

Minute No. 44/27 A.—30 September 1844.

Members present:—His Excellency the Governor, his Excellency the Commander of the Forces, the Right Reverend the Lord Bishop of Australia, the Honourable the Colonial Secretary, the Honourable the Colonial Treasurer.

With reference to the proceedings on the 16th September instant, when his Excellency laid before the Council the report of the committee on "Crown Land Grievances," in order that the members might consider whether there was any thing in those documents which would induce them to modify the opinions which they entertained, when they advised the issue of the regulations of the 2d April 1844, the Governor presented a paper on the subject from the Lord Bishop of Australia, and his Excellency expressed his desire that it should be read and entered on the minutes.

The paper was then read, and ordered to be entered on the minutes.

His Excellency then presented to the Council a paper which he had himself prepared on the same subject, and which was read.

(signed) *Francis L. S. Merewether*,
Clerk of the Council.

Enclosure A. 1. to Minute No. 27 of 1844.

Paper delivered to the Executive Council by the Lord Bishop of Australia on the Squatting Question.

For the Bishop of Australia's Minute, 24 March 1844, *vide* Papers ordered by the House of Commons to be printed, 1 May 1845, No. 267, Part III. p. 52.

The observations contained in the paper which, on the requisition of your Excellency, I submitted to the Council on the 24th of March last, conveyed so fully my sentiments as to the occupation of Crown lands beyond the boundaries, that, if the regulations of the 2d April formed now the only question, it might be sufficient to refer to that paper, as conveying the opinions to which I still adhered; but the spirit in which those regulations have been received, and the tone in which they have been animadverted on in the document now laid before this Council, have completely varied the features of the question.

A report in which doubts are raised as to the competency, if censures be not also cast upon the motives, of your Excellency and this Council, cannot be brought officially to our notice without demanding, according to the best judgment which I can form, some vindication of the proceedings thus called in question.

Report from the Select Committee on Crown Land Grievances, with Appendix, Minutes of Evidence, and Replies to Circular Letters, ordered by the Legislative Council to be printed, 20 August 1844; ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV., p. 3.

At the same time, it must not be lost sight of that, although the terms on which the Acts of the Executive Government are repeatedly alluded to in this document cannot be noticed without regret, the decisions there expressed, and the evidence upon which they are grounded, can carry no greater weight than may be attached to an *ex parte* statement. The members of the select committee are, without exception, members also of a political association, which stood already pledged to a most unfavourable decision as to the regulations. Among the witnesses there are few—comparatively very few—whose interests are not closely bound up with pastoral pursuits, and who must therefore unconsciously to themselves have spoken and written with a bias upon every question connected with that occupation. Even of the Legislative Council itself, a majority comprising nearly two-thirds of the entire number of members belong also to the Pastoral Association.

It must therefore be a source of consolation to your Excellency and the members of this Council, under the unsparing censures which have been heaped upon them, to find that these are no more than the repetition of a condemnation which had been already determined on and pronounced. To no other cause than this is it possible, with so much appearance of reason, to attribute the hasty conclusions which the committee has frequently been led to adopt—conclusions not only unsupported by any evidence, but even contrary to the bearing of that which they have themselves recorded. This is manifest with regard to many subjects, especially as to one most intimately connected with the character and propriety of the regulations of the 2d April—that is to say, the minimum upset price of land. The committee observe, that they have collected a body of facts and opinions likely to have weight with those upon whom the final decision of the question will rest. It will be found that, so far as relates to the minimum price, the evidence quoted by the committee as that on which the greatest stress is to be placed contains not a single proof of facts, and the opinions are no more than bare assertions which tell against the conclusion they were designed to establish. The present minimum price, it is positively laid down, is too high. Instead of offering any proof of this, it is assumed that the effect of raising the price to 1 *l.* per acre has been to put a stop to the sale of Crown land altogether, and so to prevent the continuance of immigration; and this being once taken for granted, the desired conclusion is easily arrived at. One witness indeed observes, it would be "difficult to explain briefly how this effect has been produced, or even at large in an essay." Nor indeed is this witness or any other desired to afford this explanation; but the assertion that such an effect has followed is repeated by numerous witnesses, all concurring in the persuasion, that the augmentation of the price of land has destroyed the land fund, and put a stop to immigration. But on a more attentive examination of the evidence, the first conclusion would appear to be, that the same effect would have followed no less if the minimum price of land had been continued at 5 *s.* per acre. Where is it shown, or how can it be shown, that the effect of adhering to that

Sir Thomas Mitchell, 12.

Captain King, 1.
M'Alister, 3.
Bloxsome, 1.
Sutton, 49.
O'Connell, 1.
Boyd, 1.

price would have been to apply the boundless territory of Australia to the use of civilized man, when this very body of evidence proves, that they who purchased extensively at the lower price are no less sufferers than they who purchased at the higher, or that both parties have lost their all?

Mr. B. Boyd declares his persuasion, that "the spirit for immigration and desire to invest money in this colony were to a very great degree checked by the alteration in the price of land" (1); and yet he immediately adds, that with the experience he has gained since he came to the colony, he feels convinced no person could purchase land for grazing stock upon at any price (3). He refused to purchase 9,000 acres, commanding all the water upon very extensive back runs, in one of the oldest settled and most populous parts of the colony, for 1,000*l.*, or 2*s.* 2*d.* per acre, the back runs being given in. He not only "considers 5*s.* too high a price to pay for land for feeding sheep, but it is one which it is impossible for the grazier to pay" (4). A whole run is not worth 1*s.*, nor even 6*d.* per acre (6). He does not consider that persons can afford to graze their stock upon land purchased at any price (3, 4, 5, 6). This conclusion is confirmed by Sir Thomas Mitchell, who having mentioned 2*s.* 6*d.* to 5*s.* per acre as a moderate price for land, immediately adds, that it would not be a proper price at which a sheep farmer would purchase the whole of the land occupied by his sheep (57, 66). The minimum suggested by this witness, although of a very peculiar character, is apparently the only one which could have ensured a continuance of purchases. "I see," he observes, "no difficulty in determining an upset price. All that is necessary is, to take care that it be made so low that no fall in the prices of wool and stock could affect its value as a safe investment for the production of these articles" (11). But how far that minimum may exceed without violating, or at least endangering, the stated condition, is no where shown. The same persuasion as to the real value or almost worthlessness of land for purchase, and as to the impossibility of purchasing profitably to a large extent at any price, is expressed by every other witness. Mr. Bloxsome says, "All land purchased beyond what can actually be brought into cultivation is so much capital thrown away. It is impossible that any purchased land, no matter how low the Government price may be, can ever pay for mere grazing purposes" (4). "I see no actual objection to purchasing in small quantities for cultivation, but by the calculation just made, I have shown that for no purposes of grazing is it possible to buy land, even at the lowest minimum price of Government, namely, 5*s.* per acre, that will yield a return" (38); and he further adds, "not even if it were half-a-crown an acre" (39). Mr. Boyd also, appealing to past transactions, says, "I believe I shall be borne out in opinion by all and sundry, that most of the parties who bought land for grazing, look upon it now as so much money thrown away" (3). With these uncontradicted statements before them it is quite inexplicable how the committee can have allowed themselves to state as their conclusion, that the rise in the price of land to the minimum of 1*l.* per acre has put a stop to the sale of it. Is it not in the opinion of every witness most evident that to purchase on a large scale for grazing, at any price whatever, must be ruinous? And is not the notoriety of that fact sufficient of itself to account for the falling away of the land fund? If the price had remained fixed at 5*s.* there could have been no wider extent of sale than at 20*s.*, except among madmen; for either price, it is shown, would be ruinous to the purchaser. Sir Thomas Mitchell relates what took place at Port Philip: "A universal system of land gambling prevailed when monied emigrants were arriving in a most favourable mood for becoming colonists in Australia Felix. Much of their money passed into the treasury chest. Now the buyers possess land only, without the means of turning it to any profit, or are in more cases, I fear, bereft of both stock, land and money; and the ill success of these gentlemen being known at home, the effect of their failure and disappointment has naturally been to check the introduction of both capital and labour" (12). Their failure and disappointment it is very plain did not arise from the price having been raised, but from their having laid out all their capital upon land, which being unproductive, would have been dear at any price. Had the minimum price continued to be 5*s.*, the sale would nevertheless have ceased as soon as the purchasers had become aware of this, and the result of their experience had become known to the public at large in England. Mr. Bloxsome, indeed, speaks the language of common sense, when he says, that "preventing a man from purchasing land is an advantage to him, because if he was induced to purchase he would expend his capital unprofitably, and it would be better for him to keep his money in his pocket;" and therefore his conclusion is perfectly just, that the rise in the minimum price has operated and will operate most advantageously for the community in general, more especially for the newly arrived emigrant, who, if the price of 5*s.* had continued, might have been induced to invest his little capital in land, which could only lead to disappointment, as it would not yield any return proportionate to the outlay.

When the whole stream of evidence upon which the report professes to be founded, tends only to this, that purchases must have ceased, let the price have been what it might, it may be shown, by a very slight calculation, that even with sheep, at the present low price, at the reduced rate of wages, and of expenses generally, and with a so much improved return in the English market from the wool, it is nevertheless impossible to carry on sheep farming at a profit if the entire extent of land required is to be purchased at 5*s.* per acre, or even at a much lower price. It is therefore perfectly unjustifiable to assume a connexion as of cause and effect between the rise of the minimum price to 1*l.*, and the cessation of purchase.

This,

This, therefore, leads to the consideration of the directly opposite system, familiarly called squatting, or of keeping stock upon land in which the occupier has no property. The effect of that system prior to the introduction of the regulations now in force is described most accurately in the evidence of the Colonial Secretary: "The greatest possible inconvenience," he says, "was experienced at the time from the encroachment of one individual upon another, and from the quarrels that thereby arose. I have always considered that it was absolutely necessary that the settlement of the interior should be accompanied by institutions of some kind or other. I foresaw, long ago, that very great inconvenience would arise in the absence of some constituted authority to enforce the law. I have always myself been favourable to an easy occupation of Crown land beyond the boundaries, as one of the greatest sources of colonial wealth; but I apprehended that the same lawless conduct would take place as in the back woods of America, if proper means were not taken to repress it" (4). Every one acquainted with the circumstances of the case will admit that these apprehensions were perfectly well founded, and that the state of things which did arrive could not have been more accurately described.

There is also equal truth in the observation of the Colonial Secretary, that by the Act of Council, 2 Vict. the great inconveniences which occurred beyond the boundaries, if not wholly removed, have been greatly mitigated. The inconveniences which remained were in fact results of the system itself, and such as no regulations could remove in the absence of any legal power, of giving the occupier of the soil a property in any part of it. I think it right to refer to the observations with which your Excellency prefaced in March last the introduction of the proposed new regulations. It was stated, that by the present system of limiting the residents beyond the boundaries to mere occupation, the Government was in fact using its vast influence to encourage the growth of a barbarous state of society.

The Government was, therefore, accessary to the evils which were springing up in consequence of no one having a sufficient interest in what he held to induce him to surround himself with the comforts of civilized and domestic life, or to introduce the institutions and ordinances on which the moral and religious improvement of communities depend. Your Excellency added, that you were perfectly aware of the storm of opposition which would be raised by any interference with the real or supposed interests of the tenants of Crown land beyond the boundaries; and that as the existing Act would not expire until a period which might probably be beyond the term of your administration, it might be in your power, without censure, to transfer this difficult and hazardous measure to your successor in the Government; but that so sensible were you of the extent of the evils above referred to, and of those arising from the irregularity of suffering persons to occupy several district stations under one license, that you felt it your duty not to leave the Government any longer chargeable with the promotion of such irregularities. If the committee of the Legislative Council had been unaware of the existence of such an objectionable state of society beyond the boundaries, or of the causes which gave rise to it, the severity of their censures on the new regulations might have occasioned less surprise; but one of their standing questions proposed to almost every witness was, "What is your opinion as to the influence of the present depasturing system upon the general improvement of the colony, and the social and moral condition of its inhabitants?"—(Circular letter, par. 5); and the replies to this question, whether oral or written, concur unanimously in attributing to the present depasturing system a most injurious effect upon the moral and social condition of that part of the community which is resident beyond the boundaries, owing to their not having, as has been already said, sufficient inducements to surround themselves with domestic comforts, and with the means of social and religious improvement. It is a most extraordinary proceeding, then, that having made such special inquiry as to the effect of the present regulations, and having found it by universal acknowledgment so unfavourable, the committee should recommend the recall of other regulations expressly designed to remove the injurious operation of those at present in force; and that this recommendation should not be supported by even an attempt at argument, but only by an assertion founded on the opinion of every witness, that they are "impracticable in principle, and oppressive and ruinous in detail."—(Report, p. 29.) The application of such expressions, and of others equally in violation of ordinary courtesy to a measure of the Executive Government, could not be justified, unless it were convincingly shown that that Government was not only mistaken in policy, but intentionally bent on injuring the interest of a particular class of the community. It can scarcely be thought necessary, and yet it is due to this Council to say, there existed no intention but to relieve the community from certain disadvantages attached to its condition, under the now existing system of occupying Crown lands.

Experience had demonstrated the impracticability of a grazing system, founded on the principle of requiring the purchase of the fee-simple of all the land required for the support of stock: it is necessarily ruinous to the purchaser. The application of the same test manifestly showed the ill effects, moral and social, attached to the practice of occupying immense tracts of country for pastoral purposes, while no right of property in any portion of that extent of soil was vested in the occupiers. The regulations of the 2d of April, which go to meet these two opposite evils, present, therefore, at least a *primâ facie* appearance of good policy, as well by providing for the occupation of the Crown lands upon easy terms, which is so much to be desired, as by placing within reach of the occupiers the option of acquiring by purchase a property in the soil sufficiently extensive to enable and induce them to undertake the culture of physical, social, civilized and religious improvements in their several neighbourhoods. The principle upon which they are framed is clearly just, requiring that the occupier of a wide extent should pay a license fee of larger amount than is

demanded from the smaller occupier. The regulations demanded, therefore, and were entitled to receive a calm investigation, that it might be shown in what respect, and why they were likely not to accomplish the purpose with which they were framed. The Government has a right to complain of their having been condemned by a recourse to such clamour as may be more naturally accounted for, and may also be more in place, when the interests of some particular class of the community are threatened, than when the common welfare of every class is to be consulted; for it must awaken some sense of injustice in the minds of those who, after having exerted their ablest and most unbiassed judgment in framing these regulations for the common good, find it asserted, that they "were drawn without sufficient consideration, either of the present circumstances and exigencies of the settlers, or of the varied character of the country in this colony,"

Capt. P. P. King, 2.

Where is the proof of the asserted want of consideration? None is even contemplated. On the contrary, the witness who offers this incautious objection, himself expresses most clearly the evil effects certain to arise from allowing any tenure of the grazing lands exceeding in duration that which the new regulations propose. It is moreover not less remarkable that the same witness, proceeding to propose his own views as to the properest arrangement for disposing of the grazing lands beyond the boundaries, should have recommended a scheme which is in principle and very nearly in detail identical with that proposed, in the "recommendations" conveyed by the "General Hewitt" on the 3d of April, in company with the "regulations" of the preceding day. It is true that Captain King differs from the recommendations, (which necessarily concur with the Act of Parliament), in suggesting 5 *s.* per acre as the minimum price. But immediately afterwards proposing that the occupier should be allowed, in addition to his homestead, to purchase at "that fixed moderate rate" other sections of land where he pleased, he shows that the minds of even the most intelligent men have not yet been weaned from the propensity to acquire without competition portions of land selected by their own judgment, through the possession of which they may be enabled to obtain the permanent use of other vast tracts without purchase, to the great inconvenience of the public at large, and the lasting detriment of the general interest. When it is upon such grounds that the measures of the Executive Government are attacked, it is plain that only discussion before a tribunal less affected by personal interests is needed to lead to a conclusion opposite to that at which the committee on Crown Land Grievances have arrived. It is shown by their report that 56 graziers (allowing not more than three acres for the support of a sheep) occupy nearly 4,000,000 of acres, at one-third of a penny per acre; and that it stands in evidence that, in the district of Port Philip, 81 holders of licenses occupy very nearly one-half of the country, the other half of which is partitioned between 423 occupants. When these facts, and others of a corresponding character, are established by the witnesses of the committee itself, it is too plain to require proof that the desire of his Excellency Sir Richard Bourke to obtain an efficient control over the waste land of the colony beyond the limits of location had been most lamentably frustrated.

It is very remarkable that while the committee would abolish the proposed regulations and denounce the attendant recommendations, they offer no specific proposition in lieu of these measures by which the control of the Crown and the security of the occupier of Crown lands could be satisfactorily reconciled. They intimate indeed that "when the Council shall have been invested with the necessary powers, it will be its first duty to frame such a system of leases as, without really surrendering under that name the right of the freehold, may yet give the occupier that security which is so necessary in every point of view, and to annex to those leases such rights of pre-emption and of compensation for improvements as may render it for the interest as well as the comfort of the stockholder to surround himself with the conveniences of civilized life." But when the committee shall proceed to deliberate as attentively as this Council has done upon the details of this suggestion, and shall have become as familiar with the attendant difficulties, it is much to be questioned whether any of the conditions here hinted at would be accepted as effectually securing those rights of the Crown, which must be remembered are held for the general benefit and not for the advantage of any particular class. How, indeed, can they escape the effect of the observation of one of their own witnesses saying, "I am fearful that a fixed tenure for any period of more than seven years might interfere with emigration, when it was known in England that the interior was parcelled out into sheep-runs, and likely to be occupied for any long period, the flow of that class of emigration bringing capital to be invested, would cease." And such cessation would be doubly and trebly confirmed when it was also known, that in addition to the occupation of the interior for a long term of years on lease, the present holders were to have the right of pre-emption, or the power of converting any desired portion of it into private property at a certain fixed price, and without the possibility of completion on the part of the new capitalist settlers. The arrival of any of that class in the face of such a fixed monopoly would be indeed much more to be desired than expected.

With respect to the Crown Lands Occupation Act of 1836, it has always been understood, and the construction of the Act itself appears to prove, that there was a general acknowledgment of the right and power of the Crown to appoint and receive a license fee in token of its absolute right over all lands which have not been sold or granted. It is erroneously assumed in the report that the proposed regulations imply, or that the Executive Government seeks the exercise of any additional powers exceeding those which were virtually approved by the late Council in passing that Act. It is without reason disputed whether the Executive is competent to raise a revenue from those lands without the consent or advice of the Legislature, when no claim has been advanced to any right beyond those limits which the Imperial and Colonial Legislatures have equally recognised. But the rights of the Crown, which

are in fact those of the nation, are disputed and invaded when the Queen's sovereignty over the waste lands of the colony is pronounced to be a mere fiction; or it is held that if these wastes do really form part of the demesne of the Crown, the rents and profits of them should be collected only for the benefit of the Consolidated Fund.

Can the committee mean seriously to maintain this latter proposition, which can hold good only upon proof being given that Her Majesty is surrendering, or Parliament, in accepting the surrender of the hereditary revenues for a fixed civil list, contemplated that the proceeds of the waste lands in New South Wales were among the profits so surrendered to the Consolidated Fund? As to the hereditary power of the Crown over those wastes, the denial of it now attempted may be very safely left to the determination of those authorities in the law whose province it is to pronounce upon such questions. But suppose the new theory to be confirmed, what then will be the general state of landed property in this colony? If the right of the Crown to dispose of the territory be set aside, then every acre which has been alienated by grant or purchase from the foundation of the colony is held under a defective title, for all such titles rest upon the assumed existence of the sovereign power of the Crown. And if that assumption be no better than a fiction, then all which is founded upon it falls to the ground. An attempt is also made to assimilate the occupation of these lands to the privilege of commonage in England. An obvious distinction must immediately be drawn, inasmuch as there is no principle more clearly laid down than that the lord of a waste cannot, at his own will, alienate or appropriate any part of it. This inability argues the existence of certain legal claims to occupation existing in other parties; *vice versâ*, then the power which the Crown has exercised in the grant or sale of such lands, without reference to the temporary occupants, proves no less conclusively that there are no legal claims existing which can interfere with those of the Crown. If the Crown be thus by prerogative entitled to sell these lands at 5*s.* or 1*l.*, or at any other price per acre, it must be conceded that the Crown possesses the right, on the supposition of which the regulations of the 2d of April proved, that is, of letting the same lands, previously to sale, at about one-fifth of a penny the acre per annum. There is no resemblance whatever between the terms on which they are occupied and the right of common. Under the latter the flocks and herds of an entire parish (each proprietor being limited only as to the number he may send) are intermingled on the common. In this colony, on the contrary, it has been proved, by the decision of a court of law, that each occupier has his own limit, within which he has a remedy by action against any other whose sheep or cattle intrude. In the case of commons, the origin of the right to use them is lost in remote antiquity; And it is presumed either that the lord received the original grant from his superior, burdened with that obligation in favour of tenants, or that at some subsequent time he parted with it for a due consideration from them. Here, on the contrary, the superior still holds the land in his possession. The origin of that possession is recent; the lord of the waste is well known not to have been burthened with any such obligation; neither to have subsequently conceded any such right; under such holding, therefore, I am unable to trace the slightest ground in reason or justice for disputing the right of the Crown to derive a revenue from the natural herbage; and even if it be true (though I am not certain of it) that this is "the first instance in the history of English colonization of an attempt to get anything from land except by its alienation," the answer may be, that this is also the first instance of the Crown being in possession of land which it could not, without extreme confusion and danger, permit to be promiscuously and gratuitously occupied; and that, therefore, the practice of demanding a revenue from such unalienated land is one which the Crown could not but introduce and continue, unless it would show itself indifferent to the public interest and security.

It is not easy to comprehend what the select committee can mean by describing the regulations as "impracticable in principle." Had they said that they were defective, wrong or unjust in principle, it might have been understood; but no one has said this. They are just in principle, as they make every one pay in proportion to the advantage received, and to the extent of property which receives protection. If it be meant that the regulations will be found impracticable in operation, this is an assertion hazarded without sufficient proof. The regulations, it is said, "presuppose a survey;" if an exact scientific survey of the whole country be meant, the reverse, I am confident, was contemplated by this Council in agreeing to the regulations. There can be no doubt that to take the number of acres practically, there must be what Sir Thomas Mitchell terms a "survey of some sort;" but the testimony of Captain King upon this point is peculiarly valuable, as he has reduced to practice the very expedient which he recommends. He says explicitly that, "in the absence of a regular survey, a rough working plan would suffice," and he shows the method of constructing it; and this, without the necessity of further discussion, confirms the justice of the view taken by this Council. "Some parts of the colony," it is said, "are mere deserts." There is nothing in the regulations to compel any person to take out a license for a station which falls under that character; but certainly, as they go to create a right of ownership, they must have, at any rate, a tendency to correct the barrenness of such spots, by gradually inducing the practice of collecting water upon them by artificial means, and by other modes of improvement; so that, finally, those stations "which can now be occupied during only a portion of the year," may be made tenable during the whole. "The only practical principle of defining stations," the Council urge, "is that of adherence to natural boundaries." There is nothing in the regulations to prohibit or discourage a reference to natural boundaries where they exist; when they cannot be found, including a quantity of land approaching tolerably near to the extent desired, then only must recourse be had to imaginary lines, which the evidence of Captain King proves it is not a difficult thing to draw. "The only intelligible measure," it is added, "of the value of the station, when so defined, is the quantity of stock which it is able to support in an average season." This is a truism; but its argumentative

argumentative force is not very apparent. The principle involved in the regulations is this; that, although there must be a great difference in the value of stations compared with each other, yet, taking the average, the quantity, 12,800 acres, must be worth the license fee. It appears to have been assumed rather too hastily, under the influence of "the dissatisfaction felt at the publication of the regulations," that this license fee must necessarily be 10*l.* per annum; whereas there can be no reason in the world for doubting, that if the parties interested had treated the subject calmly, and had come respectfully to the Government, with a representation, supported by sufficient proof, that the rate of 10*l.* per annum was too high, the Government would have lowered that rate to whatever was equitable, its sole fixed principle being that they who occupied most (extent and value being most frequently commensurate) should also pay most, whether the license fee should be 10*l.* per annum or only 2*l.* per annum, being comparatively a matter of little importance. The committee add that, "tried by these tests," or by the four objections here noticed, "which are no speculative opinions, but which have been confirmed by nearly every witness, and by the general tenor of the correspondence of the Commissioners of Crown Lands with the Colonial Secretary, the regulations of the 2d of April must be pronounced not only oppressive in their details but absolutely impracticable in their original conception." It is easy to employ, it would be easy to retort such observations, but the use of them being discreditable, the imitation would be no less so. As a party to the regulations, I shall content myself with expressing my conviction that the terms in which they are here spoken of are such as could have been employed only under the influence of feelings by which the fair exercise of the judgment was superseded. As to what is said of the objections being confirmed by the evidence of nearly every witness, the only one among those objections which can aspire to the dignity of an argument, namely, the supposed necessity of a previous survey, is contradicted by the only witnesses who it is believed have any practical acquaintance with the subject, Sir Thomas Mitchell and Captain King.

The recommendations said to have been transmitted to Europe by the "General Hewitt" are denounced as "containing principles which cannot be worked out without the utter ruin of the grazing interests." It is difficult to conceive how this can be brought to pass, unless there be other concurring causes not distinctly specified by the committee, and unconnected with the operation of the new measures which are to have a powerful influence in accomplishing the ruin here described as impending. The simple operation of the system recommended in the despatch of your Excellency, forwarded by the "General Hewitt," appears to be the following:—A squatter has a run for 4,000 sheep; for this he pays annually a license fee of 10*l.*, and an assessment on the stock amounting to 16*l.* 13*s.* 4*d.* If he desire to obtain secure possession of his run for eight years, he may purchase the best and most desirable half section upon it for 320*l.* Let it be supposed that during the eight years for which the station is secured to him, he makes no return whatever from his purchased land, and that he pays 7½ per cent., or about 24*l.* per annum, as interest on the capital sunk in the purchase, the total demand upon him is 50*l.* per annum, or 3*d.* on each sheep. This would leave, under present circumstances, a handsome annual profit upon the price paid for the sheep, which may be assumed at 1,000*l.* Thus the occupier of such a station has obtained possession of a freehold property, which under good management during eight years may be made, at the close of that interval, to yield an independence for his family. He may also hope to be in a position, if circumstances seem to render it expedient, to become the purchaser of a second half section, in order to carry out farther improvements of the same description; and all this may be effected by a prudent expenditure of 2,000*l.*

How infinitely preferable must such a course of proceeding be to that system of more profuse investment heretofore enterprized, without either a sufficient comprehension of the subject or foresight of the consequences! Where is the situation to be found in which the sum required to form a combined grazing and agricultural establishment, under the new regulations, could be laid out with so much prospect of solid independence and comfort? A skilful person, possessed of such an estate, might settle upon it more emigrant families, in the capacity of small farmers, than are often found now upon properties of a hundred times the extent. It is the only mode apparently of establishing an agricultural interest which, feeble at first, will yet be stayed up and maintained by association with the growth of wool, until such time as, through the increase of population and of demand for agricultural produce, the landowner shall be enabled to proceed upon his own resources. It will be observed that I have not referred to the improvements in the moral and religious condition of the districts beyond the boundaries, which, it may be expected, the introduction of the new system involved in the "Recommendations" will lead to. This, it will readily be believed, does not arise from any indifference towards that branch of the subject, but from a sense of its being too extensive and important to be introduced as a mere appendage to these general remarks, and from the expectation that other more favourable occasions will be afforded me of calling attention to that most momentous and interesting topic.

I think it becoming also to remark, in order to prevent misconceptions among those who may not be acquainted with the real circumstances, that although as a member of this Council, devoting my best services to the public, I have entered thus large into the question now under consideration, I have not the slightest personal connexion with or interest in any of the concerns to which the regulations and the report of the Select Committee refer. I cannot, however, consider them altogether foreign to my proper province, because, while they apparently and immediately affect only the temporal interests of the country, yet I am thoroughly convinced that on the just and peaceable settlement of the questions now raised, the good order, contentment, industry and social improvement of the present and all succeeding generations, will very much depend.

Having

Having now given all the attention in my power to the report which your Excellency has laid before the Council, I am prepared to say, that it presents nothing which can induce me to recommend any alteration in the regulations of the 2d and 3d of April, beyond a few slight modifications which do not at all affect the principle, and if approved, may be easily introduced when the time shall arrive for carrying the new system into operation.

(signed) *W. G. Australia.*

Executive Council Chamber, 30 September 1844.

Enclosure A. 2, to Minute No. 27, of 1844.

Paper delivered to the Executive Council by the Governor, on the Squatting Question.

I entirely concur with the Bishop of Australia in the opinions expressed by his Lordship in the paper which has just been read; indeed, so entirely do I concur in and adopt those opinions, that I happily feel myself relieved from the necessity of making any observations on the general tone and character of the Report made to the Legislative Council by its Select Committee.

In respect, however, to the main question before the Council, namely, whether any change has been wrought in my opinions by the discussions which have taken place, not only in the Legislative Council, but throughout the colony, since the publication of the Government Notice of the 2d April last, I desire to offer the Council the following observations:

I wish it first to be borne in mind, that all the recommendations which I submitted to the Council in March last, as well as those which were transmitted to the Secretary of State on the 3d of April, were so framed as to be consistent with the maintenance of the Crown Lands Act of 1842 (5 & 6 Vict. c. 36), and that, consequently, I had to devise means whereby to get over the difficulties which that Act presents to the acquisition (except by absolute purchase) of any thing approaching to fixity of tenure in the squatting districts of the colony. I still think it desirable to maintain the integrity of that Act; and if it be left untouched, the additions which I can make to my former proposals will be very few, and will have reference mainly to alterations in the Local Crown Lands' Act (2 Vict. No. 27), such, for instance, as may be necessary to allow the disputes of squatters among themselves to be settled either by arbitration, or in some court of summary jurisdiction, reserving, however, all questions in which the rights of the Crown ae concerned, to the authorities by which alone they can at present be disposed of.

The substitution of a free police for the convict police now employed beyond the boundaries, and the establishment of a central Board in Sydney for the administration of the domain of the Crown, are scarcely to be considered as new proposals, for such I have always intended to bring forward.

If, however, it be decided to open the Crown Lands Act of 1842 to amendment, various questions will present themselves,—the first and most important of which is that of "pre-emption."

My objections to the right of pre-emption are, that it will greatly increase the species of scrambling for land, which is always more or less actively going on in the colony, especially for land in good locations or positions which have the command of water; and secondly, that it will tend to bring the business of the survey department again into arrears, and indeed to throw all matters connected with the sale of land into confusion.

I acknowledge, however, that pre-emption might be attended with some advantages, and I believe there is an impression in favour of it among persons in England who take an interest in colonial affairs. I therefore cannot but feel that it probably will be conceded; and though I cannot take on myself the responsibility of recommending the measure, I am therefore prepared to acquiesce in it.

To grant a squatter the right of purchasing his homestead at a fixed price after having been a certain number of years in possession of it, would doubtless be much more simple in its operation, than to expose him to the risk of an auction, even though the value of his improvements were secured to him in the manner I have recommended.

Against the granting, however, of long leases—of leases of any duration longer than a year—I retain my former objections unaltered, and must continue to retain them until it can be shown to me that there is some way by which the payment of rents can be enforced.

Numerous objections having been urged against the additional regulations of the 2d of April last, founded on the alleged difficulty of limiting in the manner proposed the quantity of land to be held under a single license, I think it right to state, that all these objections appear to me untenable or even frivolous. It is argued, as though it were intended to limit runs strictly to right lines, and rigidly to adhere to the dimensions prescribed, than which nothing could have been further from my intentions.

My proposal was, and still is, that an average 10*l.* run shall be one which, as nearly as the natural features of the country may permit, shall contain 20 square miles, provided the 20 square miles suffice to feed in ordinary seasons 4,000 sheep; but if they do not suffice, that the run may in such case be increased to any extent that may be necessary to make it feed 4,000. I still consider these proportions to be reasonable, and by no means onerous on on the squatter; though if it can be shown by fair argument, either that the quantity of

land is too small, or the fee of 10*l.* too high, I readily admit that the one may be increased, or the other reduced; as yet, however, I have heard nothing to convince me, that any alteration is required. Again, the hardship has been urged of making persons pay for a second license, who may have on a single run more than 4,000 sheep; or, in other words, the hardship of charging a person 20*l.* for his run instead of 10*l.* the moment that his sheep may have so increased as to exceed 4,000. But what I proposed in my despatch of the 2d April was, that the average 10*l.* run being once fixed, the holder of it shall be entitled to feed on it for 10*l.* per annum any number of sheep not more than 4,000; but that if, by the annual assessment, he be found to have on his run more than 4,000, he shall be required to make a further payment to the Crown of 1*l.* for each 1,000 sheep that may be in excess of 4,000. Assuming that it is desirable to make the payment partly dependent on the quantity of land occupied, and partly on the number of sheep depastured, I can devise nothing more simple in its operation than what I have proposed.

The matter might indeed be further simplified, by making the payment depend on one element only, instead of two: that is to say, on the quantity of stock depastured, without reference to the extent of land occupied: and this brings me to the consideration of the proposal of the committee, to abolish the license fee, and retain only the assessment. The obvious objection to this is, that it will destroy altogether the revenue of the Crown; and there cannot be a doubt, that it is the desire and the aim of the Council to do so.

It is true, that this desire might be counteracted by declaring, that a certain portion of the assessment (say one-half) should be considered Crown revenue, and taken instead of rent for the land; but by such a measure the broad distinction would be destroyed which now exists between a Crown revenue taken by right of ownership, and a local revenue raised by taxation.

A difficulty, moreover, would arise in respect to the purchased homesteads; for it would be evidently unjust to levy a Crown revenue on sheep or cattle despastured on a man's own purchased land, and it would be difficult, if not impossible, to ascertain how much stock any individual might keep on his own homestead, and how much on the neighbouring lands of the Crown.*

I have also had under consideration whether a fixed agistment might not be levied on stock despastured on Crown lands, instead of either rent or assessment; and if levied under an Act of the Imperial Parliament, it would in many respects, I think, be preferable to either.

It is most desirable that the payment to the Crown for the use of the land should be a fixed one, not liable to be increased or diminished by any authority in the colony; but to fix by a permanent law, the amount of an assessment raised for the maintenance of a police, or any other local purpose, might be inconvenient.

An agistment would be in the nature of a fixed assessment; but being raised under a distinct name, and by a distinct authority, it would not be so liable to be confounded with a tax. It would also tend to this further advantage, that the payment to the Crown being no longer dependent on the quantity of land occupied, all disputes respecting the boundaries or runs, as well as all other disputes between the squatters themselves, might be left to be settled in such manner as may be prescribed by local legislation.

An agistment would, however, be open to the objection that has already been urged in respect to an assessment, namely, that it would be unjust to levy a Crown assessment on sheep or cattle depastured on a man's own purchased land.

It has been suggested, that the fee of 10*l.* may be reduced, and I have admitted above that it possibly may be; but on this a previous question arises, namely, whether it be reasonable and proper to draw a revenue from the unsold lands of the Crown for the support of immigration; I have constantly assumed, that it is reasonable and proper to do so. If immigration be still wanted, I can imagine no colonial source from which money can more properly be drawn for the support of it; and admitting this, I think that the present fee of 10*l.* on a license is not excessive.

There are undoubtedly persons in the colony who, seeing the immediate demand for labour satisfied, look to no further want of it; but these very persons will be the first to raise an outcry as soon as they find the price of labour to be increasing; there are others, and perhaps they are more numerous, who indulge the hope, that funds will be supplied from the mother country for the support of immigration; but without altogether abandoning the hope that some assistance may be afforded to us from home, I greatly fear, that if we still require immigrants, we must mainly look to our own resources for the means of bringing them to the colony.

In conclusion, I desire still more earnestly to repeat my opinion, that the amount of payment to be taken for the use of Crown lands should, in some manner or other be fixed or limited by law; also, that the amount of revenue so raised, should be appropriated by law in the same way as monies arising from the sale of land are appropriated by the 19th clause of the Lands Act, 5 & 6 Vict., c. 36, or if it be not expedient to do this by statutory enactment, that it should at any rate be done in the Queen's name, and in the most formal and binding manner, so that the extraordinary powers now left to the Governor may be narrowed as much as possible.

(signed) *Geo. Gipps.*

Sydney, 30 September 1844.

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* This difficulty does not present itself in respect to an assessment raised for the support of a police, or for any other local purpose.

— No. 9. —

Unto the Right Honourable Lord *Stanley*, Her Majesty's Principal Secretary of State for the Colonies.

No. 9.
Memorial from Glasgow Association.

The MEMORIAL of the Glasgow Association for the Promotion of the Squatting and General Interests of New South Wales.

THE memorialists beg respectfully to express to your Lordship their acknowledgments of the deep interest your Lordship has always evinced in the welfare of the Australian colonies, and of your Lordship's sincere desire to give effect to every measure calculated to ensure their prosperity.

Your Lordship is aware of the stagnation produced by the cessation of the influx of European capital and labour, which for many years past promoted the rapid growth and great prosperity of these valuable colonies.

Convinced of the necessity of taking energetic and judicious measures for again attracting to these colonies the current of immigration, the colonists and others interested in their welfare cordially concur with the local Government in an anxious desire of ascertaining and giving effect to the best means of restoring, on sound principles, that element of steady and permanent improvement.

But the memorialists regret that they are obliged to differ from the Governor of New South Wales as to the means of carrying their mutual wishes into effect. The memorialists conceive that the measure lately promulgated at Sydney by his Excellency the Governor, "for the better regulation of the squatting interests of New South Wales," would be highly injurious, perhaps ruinous, to those interests, and would not attain the desired end.

The most obvious objections to this measure arise from its being based on the principle of forcing stockholders to purchase, every eight years, waste land, which would cost a sum equivalent to more than one-half of their whole capital, contrary to their wishes, and at a price per acre greatly above its marketable value; and also contrary to the principles of the Act of Council, 2 Vict. 1, No. 27, intituled, "An Act further to restrain the unauthorized Occupation of Crown Lands, and to provide the means of defraying the Expense of a Border Police;" and of the Act 5 Vict., No. 1, intituled, "An Act to amend and continue the above Act for Five Years from 30th June 1841," on the faith of which capital was invested in the purchase of stock.

With very few exceptions, the squatters have no capital available for such a purpose, their whole funds being invested in live stock and requisite agricultural implements. Such a tax could not fail, therefore, of producing the most fatal effects, if rigidly enforced; it might drive from the colony a large body of its most enterprising population, and thus produce effects the very opposite to those which the Government desires and expects.

But, even if the proposed measure could be enforced without producing such disastrous consequences, it would, at best, be a very uncertain and fluctuating source of revenue, placing a large sum in the hands of Government only once in eight years. But past experience has already too clearly proved, that nothing is so detrimental to the steady improvement of a colony, or more certain to lead to abuses and financial difficulties, as the occasional command of large sums of money.

If the immigration of capitalists and of a useful labouring population could be secured without levying any additional direct taxation on capital, it would be greatly for the interest of the colony; and on referring to the statistics of the colony, where the memorialists see, that so long as the Government sold land at a moderate rate, capital and labour flowed into Australia, they are led to believe, that if Government would again hold out inducements to the investment of capital in the colonies, by liberally encouraging extensive sales of land at low prices, and by refraining from levying direct taxes on capital already invested, a large amount of European capital would speedily find its way into Australia, which would necessarily raise wages and attract labourers.

The desire to emigrate to New South Wales, thus created, would be greatly increased were the local Government to repay to emigrants the cost of their passages by grants of land at a fair valuation.

But in the event of the Government being still of opinion, that a tax levied on capital is indispensable to place in their hands the means of stimulating immigration, the memorialists beg to suggest, that a moderate and steadily increasing revenue would be a more sure and safe method of effecting that object, than the measure now under consideration of the Government of New South Wales.

The memorialists are of opinion, that such a revenue might be procured by making it optional with the squatters to purchase a certain quantity of land, in proportion to their live stocks, with a right of pre-emption on the amount being tendered, in place of selling the waste lands by auction, and creating a speculative fictitious value; and when the memorialists mention, that the number of sheep in the colony has increasing within the last 15 years from 563,000, to upwards of 6,000,000, they think they may with safety assure your Lordship that such a large and increasing revenue would be derived from this source as would meet the ordinary and incidental expenditure of the colony, if combined with a reduction in the minimum prices of the waste lands of the Crown.

Independently, however, of any financial consideration, the memorialists believe that the prosperity of the squatter, and the social improvement of the pastoral districts generally, would be most materially promoted if Government were to grant to the stock-holders long leases of their runs, and give them every encouragement to purchase from time to time such portions of land as their means might admit of, for the purpose of forming a homestead which they might call their own; and by that means secure to themselves an increase in the domestic comforts and relations of a bush life; a liberal measure, having these objects in view, would, in their opinion, lead to the introduction of extensive agricultural improvements, which cannot take place so long as the occupiers of the soil are merely tenants from year to year.

They also conceive that the colonies would be benefited by the squatters, who are a highly respectable and intelligent body, and proprietors of numerous and valuable flocks and herds, being allowed to participate in the rights and privileges enjoyed by the colonists, particularly the right to popular election, and being rendered eligible as representatives to the Legislative Assembly.

The memorialists feel it is a duty they owe to the interests they represent, to call your Lordship's attention, in the strongest manner, to the powers conferred on the Crown Land Commissioners in clause No. 5, 2 Vict. c. 27, and 5 Vict. c. 1. Without wishing to impugn the conduct of any individual, the memorialists beg respectfully to express their belief, that the squatters are frequently exposed to suffer grievous wrongs and hardships, by their persons and property being placed under the almost unlimited control of an officer, who, at one and the same time, is Crown Land Commissioner, magistrate and stock-holder; and against whose decision there is no appeal, except to the Supreme Court, at a ruinous expenditure of time and money. The memorialists humbly submit to your Lordship's consideration the expediency of placing the Crown Land Commissioners under the supervision of the Legislative Council.

And your memorialists will ever pray.

(signed) *Alex. S. Finlay*, Chairman.

— No. 10. —

MEMORIAL of Merchants and others connected with Australia, held in London.

No. 10.
Memorial of Merchants, &c., connected with Australia.

My Lord,

THIS deputation, from a large meeting of gentlemen interested in and connected with Australia and with the trade of the colony, held in the city of London, on the 23d instant, beg to lay before you the following Memorial, embracing the resolutions adopted at that meeting.

That we look with alarm at the regulations obliging the wool-grower or squatter in that colony to buy at a high price a small portion of the station required for his stock, which purchase ensures to him only an eight years' tenure of the run.

That the result of these regulations will be the withdrawal of capital from a colony where it might be employed with the greatest advantage, morally and politically.

That

That our wool trade and woollen manufacturers are mainly dependent upon the prosperity of the colony of Australia.

That if the colony received from the mother country such encouragement as an adequate security given to capital would ensure, it would, in addition to its giving a great benefit to the parent country by the consumption of its exports and employment of its superabundant population, render it in a great measure, independent of the foreign market for a supply of wool.

We therefore humbly suggest to your Lordship the great advantage that would accrue to the colony, and to this country, from the granting of such a term of lease as would ensure to the wool-grower time for a return of interest and capital, instead of the present proposal, which obliges him to sink capital, and gives no security or time for such a return.

We venture, therefore, to propose for your Lordship's consideration the granting of leases for 21 years (under such regulations as may seem advisable), as a measure likely to promote the mutual interests of the Crown and of the tenant, to lead to the more permanent prosperity of the colony, and to give a great and lasting impulse to the woollen manufactures of this country.

We venture also to call your Lordship's attention to the very great and irresponsible powers at present given to the Local Land Commissioners, and the consequent temptation to abuse in the administration of them.

That while we are aware that the nature of the country may require the enforcement of stringent regulations, we conceive that the position of the Commissioners might be rendered more satisfactory to themselves and more advantageous for the public by the extension of the responsibility to more than one person.

There are many other points of great importance connected with the colony, which we should have been glad to have urged upon your Lordship's attention, but we confine ourselves to the above, as being, in the opinion of the meeting we have the honour to represent, of the greatest importance to the colony and the home trade and manufactures of this country.

We have, &c.

(signed) *Polwarth*, Chairman.

The following are the names of the noblemen and gentlemen interested in the Australian colonies who were present at the meeting which took place on Thursday, the 22d of May 1845, at the house of Messrs. Boyd, Brothers & Co., No. 4, New Bank-buildings, Princes-street, London, to take into consideration the present state of the colony of New South Wales, and more especially the effects likely to be produced in that colony by the introduction of the proposed new squatting regulations of his Excellency Sir George Gipps, as published in the "Sydney Gazette," of the 2d April 1844; and, lastly, the best means of affording to the licensed stock proprietors (who are the principal producers of the important staples of the colony, such as wool, tallow, hides, &c.), proper encouragement for the investment of their capital in live stock, and security for their expenditure in the improvements made at their homesteads rented from the Crown.

It was decided unanimously, that gentlemen be immediately selected from among those present, to form a deputation, and endeavour to obtain permission for an interview with Lord Stanley, at his convenience, to convey to his Lordship their respectful opinions on these subjects, of such vital importance both to Great Britain and the Australian colonies.

The Right honourable Lord Polwarth, in the Chair.

The Honourable Francis Scott, M.P., &c. &c. &c.
Mr. Robert Brooks, the largest importer of colonial wool, Shipowner, &c.
Mr. J. W. Sutherland, Director of the Union Bank of London, Deputy Lieutenant of the county of Surrey, &c. &c.
Mr. Buckle, large Shipowner and second largest importer of colonial wool.
Mr. John Armitage, of the firm of Armitage, Brothers, Huddersfield; employ 600 men in the woollen manufacture.
Mr. Donaldson, of the firm of Donaldson, Lambert & Co.
Mr. Milligan, Partner in the firm of Messrs. Reid, Irving & Co.
Mr. Mackillop, - ditto - Palmers, Mackillop & Co.
Mr. Mark Boyd, of the house of Messrs. Boyd, Brothers & Co.
Mr. Charles Enderby, of the firm of Messrs. Enderby, large Shipowners, wool importers, &c.
Mr. J. Hagen, of the firm of Jacob Hagen & Sons.
Mr. Ryan, - ditto - Ryan & Dale.
Mr. Cummins, Director of the Union Bank of Australia.
Mr. Joseph Harris, Banker, London.
Mr. William Sprott Boyd, late Partner in the firm of Messrs. Jardine, Matheson & Co.

Mr. Archibald Boyd, East India and China Merchant, Leith.
Mr. Lennox Boyd, of the firm Boyd, Brothers & Co.
Mr. Gibson, interested in Australia.
Mr. S. Browning, ditto.
Captain Bushby, R.N., ditto.
Mr. G. H. Wray, Manager of the Royal Bank of Australia.
Mr. J. Marsh, Wool-broker, London.
Mr. Edinborough, ditto ditto.
Mr. Adam Duff, Director of the Royal Bank of Australia.
Captain Roxburgh, of the "Kelso," Stock-owner, &c. in Australia.
Mr. Anthony Robinson, interested in Australia, brother to the Director of the Royal Bank.
Mr. Maitland Boyd - ditto.
Mr. Frederick Maitland - ditto.
Mr. Edridge, large Shipowner.
Mr. Ebden, interested in Australia, brother of Mr. Ebden, Member of the Legislative Council.
Captain Hart, of the Australian ship "Augustus."

—No. 11.—

(No. 19.)

Copy of a DESPATCH from Governor *Grey* to Lord *Stanley*.

Government-House, Adelaide,
31 January 1845.

No. 11.
Governor Grey to Lord Stanley, 31 January 1845.

My Lord,

I HAVE the honour to request your Lordship's attention to the Act of the Imperial Parliament, 5 & 6 Vic., c. 36, for regulating the sale of waste lands belonging to the Crown in the Australian colonies.

The provisions of the 17th section of that Act would appear to preclude the Governors of any of the Australian colonies from granting to any person or persons licenses for the occupation of the waste lands of the Crown for any period exceeding 12 calendar months from the date of such license.

An attentive consideration of the subject has led me to believe that this provision is calculated to interfere with the working of the Act of which it forms a part; that the uncertainty it creates regarding the tenures of runs held for the purpose of depasturing stock, has a tendency to retard the progress of this colony in wealth and civilization; and that it is regarded as a serious grievance by the whole of the stockholders of this country, many of whom are persons of the greatest respectability, to whose exertions the province is indebted for some of the most valuable and considerable of its exports.

There is perhaps no more difficult subject of legislation connected with the Australian colonies than the mode in which the occupation of waste lands of the Crown, for the purpose of depasturing stock, are to be permitted by the Government, and there can be no doubt that a large number of discontented individuals will always be found, who, occupying extensive tracts of land on which they depasture their flocks and herds, will endeavour by every possible means to induce the Government to grant them in perpetuity the right to this large extent of country, which they at present hold under no other claim than that of pre-occupancy. At the same time, however, I feel satisfied that there are in these colonies a large number of sensible and well-disposed persons, who would gladly rest satisfied with such arrangements on this subject as would secure to them such a tenure of their runs as would enable them to conduct their operations economically and profitably, and I think that no more effectual means could be found of silencing the unjust demands of the class of persons to whom I have first alluded, than by establishing regulations for the occupation of the waste lands of the Crown of such a nature, that the community at large would at once recognize their justice and their aptitude to the present and progressive wants of the colony.

The whole of the foregoing considerations are based upon the supposition that the large tracts of land at present occupied solely for grazing purposes, are of a value far inferior to the standard fixed by the Act which regulates the sale of waste lands in these colonies, which Act determines that no waste lands of the Crown shall ever be sold at less than 20*s.* per acre; and I believe that the truth of this supposition is now so universally admitted, that your Lordship will have no difficulty in assenting to it.

I would therefore beg to be permitted, although I feel much diffidence in giving any opinion upon so difficult a subject, to offer for your Lordship's consideration the outline of a series of regulations, which I think would be generally satisfactory to all classes of this community, and would be adapted to the present circumstances of this colony, and to its probable requirements for many years to come.

I would

I would propose that no right of pre-emption whatever should be granted to the squatters, but that the local Government should, if the occupant of the run wished it, in all possible instances, survey a block of land of not less than fifty (50) acres on such part of every run as the squatter might desire, which block, although rectangular in shape, should include in as far as possible such land and water as the applicant might think necessary for his operations, in which respect a large liberality should be exercised by the Government. I think that this block of land, which would afford a convenient homestead to the squatter, should be offered for sale at public auction in the usual manner; as the adoption of this course would, whilst it permitted the Government to act with proper liberality in allowing the applicant to select the best land and most convenient site, prevent any unfair advantages being given or even demanded, as it would not be the object of the intending purchaser to excite competition for the land he was anxious to obtain.

The squatter should then be required to declare the boundaries of the run he claimed, and to submit these boundaries for the approval of the Commissioner of Public Lands, whose approval would be necessary, in order that individuals might be prevented from appropriating large tracts of country which they had no means of stocking, but claimed solely with the intention of ultimately subletting them at an exorbitant profit; as also for the purpose of ascertaining that there were no adverse claimants for the same run.

The approval of the Commissioner of Public Lands having been obtained, and having received the sanction of the Governor, the squatter should then be required to mark out the boundaries of his run by sufficient land-marks; and I would then propose that a lease of this run should be granted to the occupant by the Governor of the colony for 14 or 21 years, according to the distance of the run from the densely inhabited portions of the colony. I think that this lease should necessarily contain the following conditions: 1stly, that all cultivation of land rented should be prohibited; 2dly, that the amount of rent to be paid should be determined by the quantity of stock depastured on the run, and that the rent should thus vary from year to year, so that each squatter might pay a rent exactly proportioned to the benefit he derived from his run, which would not be the case if the rent was fixed at so much per square mile, as the quality of the soil and its capability for supporting stock vary exceedingly in different parts of the country. I have said that the rent should vary from year to year, because I apprehend that each individual would, on the first occupation of any run, take a larger quantity of land than would be required for the stock which he immediately placed on it, in order to secure a run for its increase for the next two or three years; and it would appear just that the amount of rent should be determined by the quantity of stock which the run could profitably carry, and not by the quantity of stock the settler might first place upon it.

When the quantity of stock which the run could profitably carry was once ascertained, it might be desirable to change the rent to a fixed rent, the amount of which would be the assessment due upon the quantity of stock which the run could carry. Two advantages would result from this fixed rent. Fistly, if the tenant did not choose fully to stock his run, the Government would not lose any portion of the rent from such conduct upon the part of the tenant. Secondly, by the rent not increasing in proportion to the quantity of stock placed upon the run, an encouragement would be afforded to the tenant to make improvements upon his ron by forming tanks, digging wells, &c., and thus fitting it to support an increased quantity of stock, which it might not be worth his while to do if his rent increased in proportion to the quantity of stock placed upon his run. The fact is, that at present many portions of the province, which would form excellent runs if these improvements were made, and would then be the source of much wealth to the country, are at present left waste and wholly useless to the province, because, under the present system of uncertain tenure, it is not worth any one's while to make the improvements requisite to render the run available. These considerations have made me think that a simple and advantageous plan of fixing the rent would be, to require the Commissioner of Public Lands, whenever a run was claimed, simply to state, after an examination of the run, how many head of stock it would, in his opinion carry. If then the amount of assessment per head had been arranged by an Act; either of the Imperial Parliament or of the local Legislature, the amount of fixed rent to be paid for the run would be thus determined; and if the tenant could, by forming tanks, digging wells, &c. make the run carry a greater proportion of stock than he was required to pay

for by the decision of the Commissioner of Public Lands, he would gain the advantage of not paying an increased amount of rent upon this account, and the community at large would gain the advantage of the augmented wealth of the country, arising from its increased produce, as also of the improvements made upon the Crown lands, which would lapse to the public at the conclusion of the lease. And in the case of all leases, subsequent to the termination of the first lease of any run, the amount of rent to be paid could be ascertained by offering the next lease of the run to competition at a public auction in the usual manner.

The next important condition of the lease should be, that any portion of the run should, at any time after three months' notice, be liable to be sold by public auction, in the manner pointed out by the Act regulating the sale of waste lands in these colonies, and that the purchaser of any portion of the run so offered for sale, should be entitled to such a portion of the run in possession of the former occupant, as might be considered by the Commissioner of Public Land necessary for the purpose of allowing the new purchaser to depasture the stock actually required for his farming operations; and the number of head of each kind of stock which were to be considered necessary for the farming operations of each section of land, might be conveniently fixed by the local Legislature; so that the Commissioner of Public Lands, in determining the portion of the run which each new purchaser was entitled to, would solely have to consider the capability of that particular portion of the country for carrying stock.

I do not think that any valid objection could be offered to this arrangement, as it would always be in the power of the original occupant of the run to compete at the public auction for any land upon his run which might be offered for sale, and which would certainly be worth more to himself than to any other person; whilst this regulation would give him the great advantage of securing the possession of the run, until the land he occupied was required by intending purchasers, so that no necessity could exist for his investing any portion of his capital in the purchase of land in his neighbourhood, until the increase of the population in the colony induced persons to settle there for other than the purposes of depasturing stock.

I would further propose, that each successive purchaser of land upon any run should acquire the same right to a sufficiency of pasture for the stock required for his farming operations; so that, unless the original squatter ultimately purchased the whole property, that portion of the run which was not bought by the successive purchasers would eventually become a kind of common, upon which the whole of them would be allowed to depasture the stock necessary for their farming operations, in proportions exactly suited to the number of acres which each individual had purchased from the Crown. Although I have used the term "common land," I suppose that the whole of this land would be from time to time sold as a demand for it arose, and that each new purchaser would acquire a right to depasture a quantity of stock upon the waste lands which still remained unsold, proportionate to the extent of land he had purchased.

There are many portions of the province in which this latter part of the arrangements I am proposing, might at once be advantageously adopted. The high upset price of land having in the great majority of instances prevented individuals from purchasing more land than they actually required for their agricultural operations, whilst they have trusted to the waste lands in their vicinity to afford them the means of depasturing their working bullocks, dairy cattle, horses, &c. I would propose in all such cases that I should be permitted to divide the country into parishes, the waste lands included, in which should be regarded as a common, upon which all the landowners living in that parish might depasture stock in the exact proportion of the number of acres of purchased land which each individual held. This system could easily be arranged under the sanction of the Imperial Government by an Act of the local Legislature requiring the landowners of every such parish to meet at a public meeting upon some one day of the year, at which meeting the question would be proposed "how many head, and what description of stock the waste lands included in the parish, could carry in the ensuing year." This question having been determined by the majority of the meeting, the amount of assessment to be paid by the parish to the Government in the ensuing year, would be thus fixed, and commissioners, appointed for the purpose, would arrange the number of head of stock which each individual, in consideration of the quantity of purchased land he held, would be entitled to run on the waste lands of the parish during that year; and the same Ordinance of the local Legislature would fix the

fines

fines and penalties to be attached to any breach of the rules regulating the pasturage upon common lands.

Should this latter arrangement meet with your Lordship's approval, then the system of leasing runs proposed in the former part of this despatch, would, as the population spread into the remote districts of the colony, gradually lapse into the division of the country into parishes, by the Governor, in each instance, when he considered a run to be so densely populated that the remaining portion of the waste lands on it ought to be declared subject to the regulations of common lands, proclaiming it a parish; and one uniform system regarding the occupation of the waste lands of the Crown, suited to each stage of the progressive advance of the country, would thus prevail throughout the province.

I have recommended that the kind of rent to be paid for the occupation of the waste lands of the Crown, should be an assessment of so much per head for all stock depastured on such waste lands, and I would further propose that such an assessment should be very light; probably the assessment fixed by the Ordinance of the Legislature of this colony, 6 Vict. No. 8, a copy of which I have the honour to enclose, might be considered as a convenient and equitable assessment.

Enclosure, No. 1.
6 Vict., No. 8. An Ordinance for protecting the Waste Lands of the Crown in South Australia from encroachment, intrusion and trespass, sec. 14.

In framing that measure, I did not contemplate raising any large revenue from leasing the waste lands of the Crown, but merely such an amount as might defray the expenses of their management, together with a fair proportion of the expenses of the mounted police force, who are, in a great measure, maintained for the protection of the squatters.

My reasons for adopting this course were, that I considered that it would be impolitic to require squatters to pay any large amount for the occupation of the waste lands of the Crown, as any such payment would press very unequally upon them in different years. When the seasons are favourable for their operations, and the prices of the produce raised by them are high, the squatters are undoubtedly able to contribute largely to the revenue of the colony, but I find that by imposing duties upon luxuries and upon imported goods, a revenue is at these times just as certainly and effectually raised from the squatters as by a direct imposition, either in the form of license fees for their runs, or an assessment upon their stock, whilst this mode of proceeding presents the additional advantage, that if the prices of produce fall and the seasons are unfavourable for pastoral operations, the squatter is not pressed down by a direct imposition which under such circumstances he cannot afford to pay.

In conclusion, I ought to inform your Lordship that several of the recommendations included in this despatch have already, as hereafter stated, been in beneficial operation in this colony, although hitherto imperfectly and under no fixed and recognized system; from the good effects, however, which have resulted from their partial adoption, I feel the less hesitation in recommending their more extended operation to your Lordship.

Firstly, I have in all practical instances encouraged the squatters to purchase homesteads of 80 acres, on the principles stated in the previous part of this despatch, and several of them have done so with great advantage to themselves and the community.

Secondly, in order to prevent disputed questions arising regarding trespasses upon runs, &c., the squatters have been required by a Government notice, a copy of which is enclosed, to define accurately the boundaries of their runs, and I believe that this has, in all instances, been done, and it has been productive of considerable advantages, not only in preventing disputes regarding runs, but also in checking the spread of the scab in sheep.

Enclosure, No. 2.
Government Notice, dated Colonial Secretary's Office, April 10th, 1844, containing regulations for enforcing the definition of runs in certain cases, published in Government Gazette, 11 April 1844.

Thirdly, the system of common lands, as detailed in this despatch, has been extensively adopted in the more densely settled portions of the colony, and although from the want of enactments of the local Legislature, which I did not feel justified in proposing for the consideration of the Council until I was made acquainted with the views of Her Majesty's Government on this subject, this system has not been brought into full and effective operation, the benefits it has already produced have been so marked and decided, that I believe no measure would be received by the community at large as a greater boon, or as one that would be more likely to promote their interests.

I have, &c.

(signed) *G. Grey.*

Enclosure 1, in No 11.

Anno Sexto Victoriæ Reginæ, No. 8.

Encl. 2, in No. 11.

By his Excellency *George Grey*, Esquire, Governor and Commander-in-Chief of Her Majesty's Province of South Australia and its Dependencies, and Vice-Admiral of the same, by and with the advice and consent of the Legislative Council.

AN ACT for protecting the Waste Lands of the Crown in South Australia from Encroachment, Intrusion and Trespass.

Preamble.

Whereas it is expedient and necessary to protect the waste lands of the Crown in this province from encroachment, intrusion and trespass, and to prevent the occupation thereof from being considered as giving any legal title thereto, and otherwise to regulate the interior districts of the province:

Be it therefore enacted, by his Excellency George Grey, Esquire, Governor and Commander-in-Chief of Her Majesty's province of South Australia and its dependencies, and Vice-Admiral of the same, by and with the advice and consent of the Legislative Council thereof, That from and after the passing of this Act it shall be lawful for the Governor, by warrant under his hand and seal to appoint, during pleasure, so many fit and proper persons as he shall think fit, being justices of the peace, to be and be called Commissioners of Crown Lands; and the said Commissioners, or any one of them, shall and may throughout the province of South Australia and its dependencies, or any district thereof, as the case may be, act in the execution hereof, subject to the control of the Governor or resident Commissioner.

Governor may appoint commissioners of lands to execute this Act.

Governor or resident commissioner may make regulations.

II. And be it enacted, that it shall be lawful for the Governor or for the resident Commissioner from time to time, by notice published in the Government Gazette, to make and issue such regulations as may be necessary for the guidance of the said Commissioners in their office, and for effectually carrying the purposes of this Act into execution, and the same from time to time to revoke and alter; such regulations not being contrary to law.

Duties and powers of commissioners in ordinary cases.

III. And be it enacted, that it shall be the duty of every such Commissioner to be constantly within his district (if such be appointed), except by permission of the Governor or of the resident Commissioner, or when unavoidably absent therefrom for temporary and necessary purposes in the performance of his duty under this Act, or under process of any competent Court; and he shall keep the peace in his district, and protect all persons being therein in their persons and properties, and in their just rights and privileges, and adjust all differences between individuals respecting the occupation of their respective stations; and for these purposes he shall make perambulations of the province, or his district thereof, and have power to limit and define the boundaries of all runs as occasion may require, and as often as any complaint shall be made to him by any person licensed under the provisions of this Act, that any dispute has arisen, he shall, being required so to do by or for either party, visit such station, and inquire into the matter of the complaint, and hear and finally determine the matter of complaint, and shall make such orders thereupon according to law as to him shall seem meet, and shall enforce the execution thereof; and upon the complaint of any licensed party, or of his overseer or manager, that any person has encroached upon the station or run of any such party, the Commissioner shall and may immediately proceed to inquire on the spot into the circumstances of the case, and, if necessary, hear evidence on oath touching the same; and if it shall appear to the Commissioner on view, or by such evidence, that any such person has encroached upon the station or run of any such party by the depasturing of stock, or in any other manner contrary to the provisions of this Act, or any regulation made in pursuance or in execution hereof, in any such case it shall be lawful for the said Commissioner to remove or cause to be removed from one place to another the cattle and sheep, and servants of any licensed person so found and determined by the said Commissioner to be encroaching as aforesaid; and such Commissioner shall and may remove and drive away the cattle and sheep of unlicensed persons within his district, and impound the same in the nearest pound; and if such licensed or unlicensed person, or his servants shall resist the said Commissioner, and prevent or endeavour to prevent his so removing or causing to be removed such cattle or sheep so found to be encroaching, or being the property of the said or any other unlicensed person, every such offender shall forfeit and pay for every such offence a sum not less than 20*l.* nor more than 100*l.*

Commissioners to erect land-marks, and penalty of 50*l.* for wilfully injuring the same.

IV. And be it enacted, that it shall and may be lawful for the said Commissioners, or any one of them, under the direction of the Governor or of the resident Commissioner as aforesaid, to erect and place, or cause to be erected and placed, beacons or land marks of such construction, form and materials, and marked in such manner as shall be appointed by the surveyor-general of the province, upon any such waste lands, or the boundaries thereof, as they shall deem needful for denoting the same, and the said beacons and land-marks from time to time to keep up and maintain, or cause to be kept up and maintained, in proper repair, and whosoever shall wilfully deface, injure, destroy or remove any such beacon or landmark so placed or erected as aforesaid, shall forfeit and pay for every such offence a penalty of 50*l.*

Justices of the peace, &c. to assist commissioners; as to actions against the justices, &c.

V. And be it enacted, that every justice of the peace and constable shall, being thereunto required by writing under the hand of any such Commissioner of Crown Lands, aid and assist such Commissioner in the execution of his duty under this Act, and no suit or action shall be brought or commenced against any justice of the peace or constable for any act, matter or thing done by them, or any of them, upon the requisition or order of any such Commissioner during the time that the said Commissioner shall be actually present, and ordering

ordering or permitting the same to be done, but any suit or action shall and may be brought against the said Commissioner alone for any act, matter or thing so done by him, or by his order or authority, and in his presence as aforesaid; and service of process in any such suit or action upon any such commissioner so being present as aforesaid, when the said act, matter or thing complained of was done or performed, shall in all cases be deemed and taken to be good and sufficient service.

Waste lands how lawfully occupied, and penalties for unauthorized occupation.

VI. And be it enacted, that from and after the 1st day of January next, it shall not be lawful for any person whatsoever to depasture stock on any such waste land, or to occupy the same either by residing or erecting any hut or building thereon, or by clearing, inclosing or cultivating, or to cut, saw, split or remove timber or natural produce from any part thereof, without having first obtained from the Governor or resident Commissioner, or such proper officer as the Governor may appoint in that behalf, the proper license for such purposes respectively as hereinafter provided, and whosoever shall offend on the contrary shall forfeit and pay the following penalties; (that is to say) for the first offence, any sum not exceeding 10*l.*, for the second offence not exceeding 20*l.*, and for the third and any subsequent offence, not exceeding 50*l*: provided always, that no information shall lie for any second or subsequent offence until fourteen days after the conviction of the former offence: provided also, that unless public notice be given by the Governor or by the resident Commissioner or proper officer aforesaid, that the timber or other natural produce of any particular portion of such waste lands shall be reserved for the public use, nothing herein contained shall be construed to prevent any proprietor or lessee of land, or any licensed occupier of such waste land, or his overseer or manager, from cutting such timber or produce as is ordinarily used, and as may be necessary and used for domestic uses, for fire, bote, fencing stock-yards or other conveniences for the enjoyment of the said land, and provided that no part of such timber shall be sold or removed for the purposes of sale, and that the persons employed in procuring such timber be actually residing at the station of such occupier.

Proviso as to cutting timber without licenses, &c.

Licenses.

VII. And be it enacted, that the several licenses issued under this Act, shall be of three kinds, namely: First, a Depasturing License, in form or to the effect of Schedule (A.) hereto annexed, authorizing only the depasturing of stock on such waste lands; secondly, an Occupation License, in form or to the effect of Schedule (B.) hereto annexed, authorizing the building and residing on such waste lands for the purpose of depasturing stock thereon; and thirdly, a Timber License, in form or to the effect of Schedule (C.), authorizing only the cutting, sawing, splitting or removing of timber or other natural produce therefrom: provided always, that the Commissioner may from time to time subject to the provisions hereof, and any regulations made in purusance or execution hereof, declare or define certain limits and boundaries within which alone any such license shall be in force.

Terms for obtaining licenses.

VIII. And be it enacted, that all such licenses as aforesaid shall remain in force for one year from the 1st day of January in every year and no longer, and all first applications for the same shall be made through a Commissioner of Crown Lands, in form or to the effect of the form in the respective Schedules (A.), (B.), (C.) hereto annexed, and the proper officer aforesaid shall issue the same only on the report of such Commissioner that there is no cause for withholding a license from the applicant, and on payment to the Colonial Treasurer or other proper officer appointed by the Governor, of the assessment hereinafter mentioned, and of the following fees, viz.:

For every depasturing license - - -	Ten shillings and sixpence.
For every occupation license - - -	Five pounds.
For every timber license - - - -	One pound.

Provided always, that any holder of a depasturing license being in the actual occupation of not less than 80 acres of purchased land, who requires to form out-stations for the greater convenience of depasturing stock, may receive an occupation license for such purpose without the payment of any additional fee: provided also, that during any year it shall be lawful for the proper officer subject to the foregoing conditions, to issue licenses, to be in force till the 1st day of January then ensuing, and such licenses issued subsequently to the 1st day of June in any year shall be charged only with half the above-mentioned fees: provided also, that all applications for depasturing licenses for the year 1843, shall be made as aforesaid, and shall be accompanied by a return in form as after provided of all stock which was owned by or in the possession of the applicant on the 15th day of November previously, in form and containing all the particulars after mentioned.

Penalty for forging any license or authority to occupy unsold lands.

IX. And be it enacted, that if any person shall forge, counterfeit or alter, or shall utter or make use of, knowing to be forged, counterfeited or altered, any such license or other document purporting to be an authority from the Governor, or from the resident Commissioner or other officer, for any of the purposes of this Act, or shall make any false statement or refuse to answer or wilfully give any false answer to any questions by such Governor, or any Commissioner or officer acting in the execution hereof, with intent to evade any of the provisions of this Act, or of such regulations as aforesaid, such person shall be guilty of a misdemeanor, and being convicted thereof shall be liable to be transported for seven years, or to be imprisoned for any term not exceeding two years, at the discretion of the Court.

On contravening regulations of the Governor and resident commissioner licenses may be cancelled.

X. And be it enacted, That if any person holding a license for any of the purposes aforesaid shall contravene or violate any order or regulation of the Governor or of the resident Commissioner, made under the authority or in pursuance or execution of this Act, it shall be lawful for any Commissioner, on proof of the offence to his satisfaction, to declare, subject to the approval of his Excellency the Governor, the license of any such person so offending to be cancelled; and such license shall thereupon become null and void, and shall not be pleaded in justification of any offence committed against the provisions of this Act.

 XI. And

Commissioners may dispossess such disqualified person from occupying unsold land.

XI. And be it enacted, that in case any such person, after being served with notice of cancellation of his license, shall refuse or neglect to deliver up and quit the possession of such waste lands, or exercise of any right thereon for the space of ten days after service of such notice upon him, or his agent or overseer, it shall and may be lawful for any Commissioner to enter upon such lands, and to take possession of the same for and on behalf of the Crown, and of the proper department of the Government of this province, together with any houses or other improvements that may have been made thereon, and the same to deal with as he or they shall deem most expedient for the purpose of expelling such person therefrom, and also to drive off and impound any cattle or live stock that may be found thereon.

Penalties for offences by superintendents and others.

XII. And be it enacted, that if any superintendent, overseer, manager or servant resident and employed on any establishment shall be convicted on the oath of one credible witness or more, of any offence which would render a licensed person liable to have his license cancelled, such superintendent, overseer, manager or servant shall be liable to forfeit and pay a sum not less than 5*l.* nor more than 30*l.*, over and above any penalties to which such offender may be liable for such offence under any other Act.

Licensed persons to make returns of stock, proprietors and brands yearly, under a penalty.

XIII. And be it enacted, that the holder of any license to occupy or depasture on such waste lands as aforesaid, shall make or cause to be made to the Commissioner of the district wherein the lands so occupied or depastured on by him shall be situated, in the month of September in every year, a return according to the form contained in the Schedule hereunto annexed, marked (D.), of all stock owned by him or in his possession on the 1st day of September in each year, with the names and descriptions and particular brands of the respective proprietors, and shall give to the Commissioner a return of all stray cattle in his possession; and if any such licensed person shall fail or neglect to make or cause to be made such a return at the time so appointed for each and every year, or shall knowingly make any false statements therein, or shall omit to deposit the same with the said Commissioner in manner hereby required, or shall refuse to answer or wilfully give a false answer to any question relative thereto, he shall, on conviction of such offence, forfeit and pay for every such offence a sum not less than 40*s.* nor exceeding 100*l.*; and no such licensed person, nor his overseer or manager, shall keep any stock whatever belonging to any other person, unless the same, with the name and description of the proprietor, and the particulars of such stock, be reported to the Commissioner of the district in which the same shall be depastured; provided however, that unless with the consent in writing of the said Commissioner first had and obtained, nothing herein contained shall be deemed to authorize any licensed person to keep the stock of any unlicensed person, upon pain of forfeiture upon conviction of either of the two last mentioned offences, of a penalty of not less than 1*l.* nor exceeding 20*l.*

Assessment on stock to be levied yearly.

XIV. And whereas in order to defray the expenses of the payment of the salaries of the said Commissioners and constables, and others necessary to carry the objects aforesaid into due execution, it is expedient that an assessment should be raised and levied upon and of the sheep, cattle and horses in the possession of the persons so licensed as aforesaid to occupy or depasture on such waste lands; be it therefore enacted, that there shall be paid and levied in each and every year, upon, for and of the sheep, cattle and horses of every person depasturing or keeping the same upon any of such waste lands, the assessment following; (that is to say), for every ram, ewe, wether and weaned lamb, the sum of 1*d.*; for every bull, ox, cow, steer, heifer and calf above the age of six months, the sum of 6*d.*; and for every horse, gelding, mare and foal above the age of six months, the sum of 2*s.* 6*d.*; which yearly assessment respectively shall be paid to the Colonial Treasurer of the said colony, at his office at Adelaide (or to such other person, or at such other place as may be appointed by the Governor), on or before the 1st day of December in each and every year; provided that for and in respect of the first year's assessment from the said 1st day of January next and to the 1st day of January 1844, only one-fourth of the above-mentioned rate of assessment shall be payable, and that on or before delivery of the license on or before the 1st day of January next; and provided that for the year 1844, and every ensuing year, every occupier of purchased land shall be allowed a deduction from the amount of the assessment on the stock depastured by him, at and after the rate of 4*s.* for every 80 acres of purchased land occupied by him and not in cultivation: provided that such deduction shall in no case exceed the amount of the assessment.

Commissioners to make yearly returns of the assessments to colonial treasurer.

XV. And be it enacted, That the Commissioners in their respective districts (if any), shall on the 1st day of October in every year, respectively proceed to make an assessment of the sheep, cattle and horses depastured within their districts; and shall make a yearly report thereof to the Colonial Treasurer, or to such other person as may be appointed as aforesaid, in the form, and containing the several particulars set forth in the Schedule to this Act annexed, marked with the letter (E.) according to which report the yearly assessment hereinbefore mentioned shall be payable and be paid to the said Colonial Treasurer, or to such other person as may be appointed by the Governor to receive the same, on or before the respective days or times hereinbefore appointed for the payment thereof.

Commissioners to serve notices on persons liable to pay to colonial treasurer.

XVI. And be it enacted, that the said Commissioners in their respective districts (if any) shall, not less than one calendar month previous to the said days or times hereinbefore appointed for the payment of the said assessment, cause a notice in writing in the form contained in the Schedule hereunto annexed marked (F.) to be served upon the persons subject and liable to pay the same, or to be left at the residence of such persons (if within the district), or with the superintendent or persons having the charge of the said sheep, cattle or horses, if the owners thereof shall not reside within the said district, requiring them, on a certain day to be therein stated, to pay the amount of the said assessment in the said notice mentioned, to the said Colonial Treasurer or other person appointed as aforesaid.

XVII. And

Persons dissatisfied with assessments may appeal to justices in quarter sessions.

XVII. And be it enacted, that in case the sum mentioned in the said notice so served on any person required to pay the same, shall appear to such person an overcharge, or more than he is legally bound to pay, such person may appeal against such assessment to the next court of general sessions of the peace, provided that such person shall give to the said Commissioner a notice in writing of such appeal, and of the grounds thereof, within ten days after the service as aforesaid of the said notice, and shall also enter into a recognizance in double the amount of such assessment before any justice, conditioned personally to appear at the said sessions on such day as shall be named therein, and to try such appeal, and to abide the judgment of the said sessions, and to pay such costs and expenses as shall be by the said court awarded, and the said court shall hear and determine the matter of appeal, and shall make such order therein as to them shall seem meet; and in case of the dismissal of the appeal, or the affirmance of the said assessment, shall order and adjudge the person so appealing to pay the amount of such assessment to the Colonial Treasurer, or such other person as may be appointed as aforesaid, and also such costs and expenses as may be awarded to the said Commissioner by the said court within 10 days; and if such costs and expenses be not paid within such time, the said court shall and may issue a warrant of distress to levy the amount of such costs and expenses by distress and sale of a sufficient part of the sheep, cattle or horses of the person so appealing.

After renewed notice, and expiration of a month, assessment and penalty may be levied by distress, &c.

XVIII. And be it enacted, that in case any person so liable to pay the said assessment, and upon whom or upon whose superintendent or agent in the district such notice shall have been so served, or in case any person so adjudged to be liable in payment of the said assessment upon appeal as aforesaid shall refuse or neglect to pay the same upon the day appointed by such notice, or within the time appointed in such appeal (as the case may be), it shall and may be lawful for the said Colonial Treasurer or other person appointed as aforesaid, after the expiration of the week from the times so respectively appointed, to direct the Commissioner in whose district any person so refusing or neglecting to pay as aforesaid shall reside, to cause a renewed notice in the form contained in the Schedule hereunto annexed marked (G.) to be served upon every such person, charging him to pay the amount which he is so liable to pay as aforesaid, together with an additional sum equal to one-fifth part of that for which he is so liable by way of penalty for such refusal or neglect; and if any such person shall fail so to do within one calendar month after the date or service of such renewed notice, it shall be lawful for the said Colonial Treasurer or other person appointed as aforesaid, to direct the said Commissioner to issue a warrant under his hand and seal, directed to some constable, to levy the amount of the assessment and penalty aforesaid so due, by distress of a sufficient part of the sheep, cattle or horses of the defaulter; and such constable is hereby authorized to distrain, take and drive to the nearest pound within such district such and so many of the sheep, cattle or horses of the party in the said warrant mentioned, as shall be sufficient (when sold) to pay the amount of such assessment and penalty, and the costs and expenses of making such distress, and the payment of the maintenance of such sheep, cattle or horses till sold, and that within 20 days after such sheep, cattle or horses shall have been so distrained and lodged in pound aforesaid, the same (or a sufficient part thereof) shall be sold and disposed of by public auction, notice of the same being during such period posted on the pound, and also on such other public places as the Commissioner may for such purpose appoint (unless previous thereto the said assessment, penalty, costs and expenses shall be paid) and the proceeds thereof shall be applied to the payment of the assessment, penalty, costs and expenses aforesaid; and the surplus (if any) shall be paid and returned to the owner or superintendent of the said sheep, cattle or horses: provided, however, that when such warrant shall be so issued as aforesaid, in case the owner or superintendent of the sheep, cattle or horses so directed to be thereby distrained, shall pay or tender to the constable authorized to execute the same the amount of the said assessment and penalty therein mentioned, then and in such case the said constable shall and is hereby authorized to accept and receive the same, and give a receipt or receipts for the money so received, and to refrain from making and executing the said distress.

Fee charged by commissioner, 5*l.* on disputed questions of trespass, to be accounted for, with assessments, penalties, &c. to colonial treasurer.

XIX. And be it enacted, that it shall and may be lawful for the said Commissioner to charge and receive for and upon the decision of any disputed question respecting trespass or encroachment upon a complaint made by any person licensed as aforesaid, a fee of 5*l.* to be paid by the parties against whom his decision shall be made; and he shall render an account of all sums of money so chargeable and received by him, and all penalties and all fines and forfeitures, and expenses and costs payable and receivable by him under this Act, verified by his solemn declaration, in the form contained in the Schedule hereunto annexed marked (H.) to the Colonial Treasurer or other person appointed as aforesaid, at least quarterly in each year, and shall at the same time pay over to the Colonial Treasurer or other person appointed as aforesaid all sums so received by him.

Cattle not to be driven from land occupied under provisions of this Act without notice.

XX. And be it enacted, that it shall not be lawful for any person to drive any cattle from any land occupied by any person under the provisions of this Act without first giving notice to such person, his overseer or bailiff, at the time he intends to drive away such cattle; and any person who shall drive away any cattle other than his own or his master's or employer's, from any land occupied by any person under the provisions of this Act, or who shall fail to give such notice as is hereby required, shall, on conviction, for every such offence forfeit and pay the sum of 5*l.*

Possession under license not to give title.

XXI. And be it enacted, that no possession nor occupation of any land taken or had under or by virtue of any license as aforesaid or otherwise, shall be construed to give any title whatever thereto, or to alter in any respect the rights of Her Majesty, her heirs and successors in respect to any such land.

Recovery of penalties before justices summarily if not exceeding 50*l.*

XXII. And be it enacted, that all penalties, fines and forfeitures incurred or imposed under this Act, not otherwise specially before provided for, shall and may be sued for and recovered at the suit of any such Commissioner or such other officer as the Governor from time to time may in that behalf appoint, in a summary way, before any two or more justices of the peace other than any such Commissioner, under and according to the laws in force within the province for the time being for regulating summary proceedings before justices of the peace: provided always, that any such penalty, fine or forfeiture exceeding the sum of 50*l.* shall only be recovered by action of debt at the suit of Her Majesty's Advocate-general in the Supreme Court of this province.

Appropriation of sums, partly to emigration fund, partly to public uses of the Government.

XXIII. And be it enacted, that all sums of money payable under and by virtue of this Act shall be paid into the colonial treasury, and applied and appropriated as follows, viz., the sums received for licenses relating to the unsold lands shall be placed to the credit of the emigration fund, and all other sums shall be paid to Her Majesty, her heirs and successors for the public uses of the province and support of the Government thereof.

Protection of persons acting in execution of this Act.

XXIV. And for the protection of persons acting in execution of this Act, be it enacted, that all actions for anything done under this Act shall be commenced within six calendar months after the fact committed, and not otherwise, and notice in writing of such action and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon, and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into court after such action brought by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited or discontinue such action after issue joined, or if upon demurrer or otherwise judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases, and although a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant, unless the judge before whom the trial shall be shall certify his approbation of the action and of the verdict obtained thereupon.

Governor may order costs of suits to be paid from treasury.

XXV. And be it enacted, that it shall and may be lawful for the Governor to pay or cause to be paid out of the public treasury of the province the costs or charges of any suit or action which shall or may be brought as aforesaid by or against the said Commissioners or any justice of the peace constable or other person acting under the authority and in the execution of this Act.

Repeal of Sheep Tax and Scab Amendment Act, 4 Vict., No. 9.

XXVI. And whereas by an Act of the Governor and Council of South Australia, passed in the fourth year of Her present Majesty's reign, to amend and extend the provisions of the Act for the prevention of the scab in sheep, it is enacted that a tax or duty may be levied in manner therein provided of 10*d.* for every score of sheep owned or possessed in the province; be it therefore enacted, that the foresaid enactment and every clause and provision of the said recited Act relating thereto shall be and the same is hereby repealed.

Powers of commissioners to execute the Acts relating to the impounding, slaughtering and scab in sheep.

XXVII. And for more effectually carrying into execution the several Acts of this province relating to impounding, slaughtering and the prevention of scab in sheep, be it enacted, that the Commissioners appointed under this Act shall respectively have and enjoy all the rights, power and authority, protections and privileges of the inspectors and other officers appointed under the said several Acts, and shall have survey and control over all such inspectors and other officers, subject to the approval of the Governor.

Operation of the Act.

XXVIII. And be it enacted, that this Act shall commence and take effect from and after the passing thereof, and shall continue in operation only until Her Majesty's Royal will and pleasure respecting the occupation of the waste lands of the Crown in South Australia shall be known.

Construction.

XXIX. And be it enacted, that the term "Governor" shall apply and extend to the Officer for the time being administering the Government of the province, and the term "Resident Commissioner" shall be construed to mean the Colonial Commissioner of Public Lands resident in South Australia.

(signed) *George Grey*,
Governor of South Australia.

Passed the Legislative Council, this 24th day of November 1842.
(signed) *A. M. Mundy*, Clerk of Council.

SCHEDULES REFERRED TO.

(A.)

For Depasturing Licenses.

FORM OF APPLICATION.

To his Excellency the Governor, and resident Commissioner of public lands in South Australia, A. B., residing at (specify the place and addition) humbly makes application in pursuance of the Act of Council 6 Victoria, No. 8, for a [Depasturing License to authorize him to depasture stock on the waste lands of the Crown], to be in force within such limits

limits as may be assigned in terms of law, and he declares that he has complied with the provisions of the said Act, and that there is no cause for withholding the said license.

(signed) *A. B.*

FORM OF LICENSE.

WHEREAS in pursuance of the Act of Council, 6 Victoria, No. 8, application has been made to his Excellency the Governor, and resident Commissioner of Public Lands in South Australia by A. B. (name and addition of applicant) for a [Depasturing License, authorizing him to depasture stock on the waste lands of the Crown], and it appears by the report of the Commissioner of Crown Lands, that there is no cause for withholding such license.

Now therefore, his Excellency the Governor and resident Commissioner aforesaid, doth hereby grant to the said A. B. [a Depasturing License, authorizing him to depasture stock] on such waste lands, to be in force within such limits as may at any time be assigned by the Commissioner of Crown Lands in terms of law, for the term of from the day of and no longer, subject always to the provisions of the said Act.

By his Excellency's command,

(signed) *C. D.*
Colonial Treasurer.

SCHEDULE (B.)

For Occupation Licenses.

THE same forms, except as to the words within brackets, for which substitute the following:—

"An Occupation License, authorizing him to build and reside for the purpose of depasturing stock on the waste lands of the Crown." (If the applicant claims as proprietor of any particular sections of land, state them.)

SCHEDULE (C.)

For Timber Licenses.

THE same forms, except as to the words within brackets, for which substitute the following:—

"A Timber License, authorizing him to cut, saw, split and remove timber and other natural produce on and from the waste land of the Crown."

SCHEDULE (D.)

FIRST day of September, 18 Yearly Return of all Stock owned by or in the possession of holding a Depasturing License, No. made in conformity with the provision of the Act of the Governor and Council, 6 Victoria, No. 8.

Names of Proprietors of Stock herein Returned.	Stock.			Brands.	Number and Description of any Sections of Land on which a deduction from the Amount of Assessment is claimed.
	Horses above the Age of Six months.	Cattle above the Age of Six months.	Sheep including all weaned Lambs.		

To Esquire
Commissioner of Crown Lands.

I hereby certify that the above is a true and correct return.

SCHEDULE (E.)

FIRST day of October 18 Yearly Report of the holders of Depasturing Licenses liable to pay assessment, rendered in conformity with the provisions of the Act of the Governor in Council, 6 Vict., No. 8.

No. of License.	Name of Holders.	Stock Assessed.			No. of Sections of Land on which a deduction is claimed.	Amount of Assessment payable.	Remarks.
		Horses.	Cattle.	Sheep.			

To Esquire,
Colonial Treasurer. Commissioner of Crown Lands.

SCHEDULE (F.)

District of

No.

Commissioner of Crown Lands Office.

THE amount with which you are assessed for the year from 1st January to 31st December 18 , under the provisions of the Act of the Governor and Council of South Australia, 6 Vict., No. 8, on the undermentioned stock depastured by you on Crown lands in this district, is as follows :—

		£.	s.	d.
Horses - - - - -	at 2*s.* 6*d.* per head	-		
Head of Cattle, including Calves above the age of six months - -	at 6*d.* per head	-		
Sheep, including weaned Lambs -	at 1*d.* per head	-		

which said sum of pounds, shillings and pence, you are hereby required to pay to the Colonial Treasurer, at his office in Adelaide (or to at his office at , as the case may be), within one calendar month from the date of the delivery of this notice either to yourself or at your residence.

Or if you consider yourself as having any just cause for appealing against the said assessment, you will please to observe that such appeal must be lodged with me within ten days from the date of the delivery of this notice either to yourself or at your residence, together with your recognizance in double the amount of the said assessment, to prosecute the said appeal. As witness my hand, at this day of 18 .

Commissioner of Crown Lands.

To

Declares that he served the above notice on the above-named , by delivering a true copy thereof to him (or by leaving the same at his usual place of residence, as the case may be), on the day of 18 .

A. B.

SCHEDULE (G.)

No. District of

Commissioner of Crown Lands Office.

WITH reference to my notice, dated the day of 18 , and served upon you by delivery to you (or to your superintendent or servant, as the case may be), at your residence (or elsewhere, as the case may be), on the day of the said month of 18 informing you that the sum with which you were assessed for the year from 1st of January to 31st December 18 , under the provisions of the Act of the Governor and Council of South Australia, 6 Vict., No. 8, on the stock therein mentioned, was pounds, shillings and pence, and requiring you to pay the said sum to the Colonial

Colonial Treasurer, at his office in Adelaide (or other person appointed, as the case may be) within one calendar month from the date of the service as aforesaid on you (or on your as the case may be) of the said notice, which sum you have failed so to pay. I now give you notice that the said sum, together with an additional sum equal to one-fifth part thereof by way of penalty for the default committed by you, together amounting to the sum of pounds, shillings and pence, must be paid to the said Colonial Treasurer (or other person appointed, as the case may be), at his office in Adelaide, within one calendar month from the date of service of this notice, with certification that if such payment is not so made the measures for the recovery of the same appointed by law will forthwith be adopted, as witness my hand at this day of 18 .

To

Commissioner of Crown Lands.

Declareth that he served the above notice on the above named by delivering a true copy thereof to him (or by leaving the same at his usual place of residence, as the case may be) on the day of 18 .

A. B.

Declared at the day of 18 .

Before me

SCHEDULE (H.)

I, A. B., Commissioner of Crown Lands for the district of do solemnly declare, and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of an Act passed in the 6th year of the reign of Her Majesty Queen Victoria, intituled, "An Act for protecting the Waste Lands of the Crown in South Australia from Encroachment, Intrusion and Trespass;" that the account herewith forwarded to the Colonial Treasurer (or other persons appointed by the Governor, as the case may be), in pursuance of the said recited Act, contains a full and true account of all sums of money received by me, and all fines and forfeitures and costs, and expenses paid and received by me from the day of to the day of 18 in virtue of my office of Commissioner under the said recited Act.

A. B.,
Commissioner of Crown Lands.

District of

Enclosure 2, in No. 11.

GAZETTE NOTICE. Encl. 2, in No. 11.

Colonial Secretary's Office, Adelaide,
10 April 1844.

HIS Excellency the Governor has been pleased to direct the publication of the following Regulations relative to the definition of runs, in terms of the second section of the Act of Council, No. 8, 6 Victoria, intituled, "An Act for protecting the Waste Lands of the Crown in South Australia, from Encroachment, Intrusion and Trespass."

By his Excellency's command,

(signed) *A. M. Mundy*, Colonial Secretary.

REGULATIONS for enforcing the Definition of Runs in certain cases.

1. THAT every licensed occupant of any portion of the waste lands of the Crown, situated more than three miles from purchased land, shall lodge with the Commissioner of Crown Lands a description of the land so occupied by him, specifying the boundaries and other particulars, according to the form of the Schedule hereunto annexed.

2. That such of the boundaries of runs situated as aforesaid, as are not formed by water-courses, shall be marked out by the occupant thereof, either by a line of marked trees, or by posts erected at proper intervals, or by some other method which will render them easily discernible.

3. That the description of runs now in occupation, shall be lodged with the Commissioner of Crown Lands, within three months after the publication of these Regulations; and in the case of runs which may be taken up subsequently to the publication of these Regulations, within three months after the occupation of the same.

4. That the names of all persons lodging descriptions of runs with the Commissioners of Crown Lands, in pursuance of these Regulations shall be published in the Government Gazette.

5. That no person shall be entitled to dispute the claim of another person to any run described according to these Regulations, unless the matter is brought before the Commissioner of Crown Lands within three months after the publication in the Government Gazette of the name of the person describing such run; provided, however, that nothing contained in these Regulations shall be construed to interfere with the power of the Commissioner of Crown Lands to make alterations at any time in the boundaries of runs.

The above Regulations are to be considered as superseding any former Regulations as to descriptions of runs.

Any number of contiguous runs in the occupation of the same person may be included in one description, the exterior boundaries only being defined.

The runs described must form compact blocks, and the boundaries must be straight lines as far as is practicable.

In case of any description of a run being disapproved of by the Commissioner of Crown Lands, the occupant will be required to lodge a fresh description within such time as the Commissioner may appoint.

SCHEDULE referred to.

Description of a run on the waste lands of the Crown claimed by the holder of an occupation license.

Situation
Boundaries
Estimated extent
Number and description of stock ordinarily kept on this run

(signature.)

— No. 12. —

(No. 10.)

COPY of a DESPATCH from Lord *Stanley* to Lieutenant-Governor *Robe.*

No. 12. Lord Stanley to Lieut.-Gov. Robe, 3 September 1845.

Sir, Downing-street, 3 September 1845.

I HAVE had under my consideration Governor Grey's despatch (No. 19) of the 31st of January last, in connexion with the Bill for amending the 5 & 6 Vict. c. 36, enclosed in my despatch No. 9, but which was not proceeded with last Session. You will perceive, that to a certain extent, the provisions of that Bill will meet Mr. Grey's views, should it hereafter become law.

In the mean time, I have no objection to any regulations which may be found necessary for the working of the system of common lands, stated by Mr. Grey to be already in operation, being passed by the local Legislature.

I have, &c.
(signed) *Stanley.*

— No. 13. —

(No. 102.)

COPY of a DESPATCH from Lord *Stanley* to Governor Sir *George Gipps.*

No. 13. Lord Stanley to Governor Sir George Gipps, 30 August 1845.

Sir, Downing-street, 30 August 1845.

I HAVE deferred replying to your despatch (No. 215,) of 30th September 1844, until able to inform you of the course I proposed to take in legislating respecting the occupation of Crown Lands.

Page 5.

For Sir George Gipps' Despatch, 30 Sept. 1844, No 215, *vide* Papers ordered by the House of Commons to be printed, 12 June 1845, No. 372, Part IV. page 3.

My despatch, No. 99, of the 7th of August, enclosing a Bill which was introduced into the House of Commons at the close of last Session, will put you in possession of my views upon so much of the address of the Legislative Council to yourself of the 17th of September last, enclosed in your despatch, No. 215, of the 30th of September, as relates to this subject, and the replies to others of the questions raised by that address, are involved in the answers to which it has been my duty to advise Her Majesty to return to addresses to Herself from the Council.

The

The remaining questions which are involved in the address above referred to, are, I think,

1st. An alteration in the powers of the Commissioners of Crown Lands.

On this I see no reason to dissent from the views stated by you in your marginal note to the report of the committee.

2d. The reduction of the upset price of Occupation Licenses within the boundaries.

On this, I leave the discretion to yourself. You appear, by your marginal note to the report, to consider them as at present too high.

3d. The commutation of Quit-rents.

On this question I will address you separately.

4th. The propriety of vesting in the grantees and purchasers from the Crown the right to minerals, which at the time the grants and purchases were made were reserved.

To this you will perceive, by my despatch, No. 99, provided that a fair royalty is reserved to the Crown for the benefit of the public, I do not object.

I have, &c.

(signed) *Stanley.*

—No. 14.—

No. 14.
Governor Sir George Gipps to Lord Stanley, 10 January 1846.

(No. 4.)

Copy of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley.*

Government House, Sydney,
10 January 1846.

My Lord,

I had the honour to receive, on the 4th instant, your Lordship's despatch, No. 99, of the 7th August 1845, together with a copy of the Bill which, at the close of the last Session of Parliament, was introduced into the House of Commons by Mr. Hope, to amend the Act for regulating the sale of Crown lands in the Australian colonies; and agreeable to your Lordship's instructions, I take the earliest opportunity of reporting to your Lordship my opinions on the various points which this Bill opens for consideration.

Page 5.

I feel it necessary to commence by reminding your Lordship, that when I first brought the subject of the occupation of Crown lands prominently before your Lordship, which I did in my despatch of the 3d April 1844, No. 75, I was impressed not only with the propriety of preserving intact the Crown Lands Act of 1842, 5 & 6 Vic. c. 36, but of avoiding, if possible, all further legislation in respect to the Crown lands by the Imperial Parliament; and that, consequently, all my proposals were so framed as to admit of their being carried into effect by the sole authority of the Crown.

For Sir George Gipps' Despatch, 3 April 1844 No. 75, *vide* Papers ordered by the House of Commons to be printed 1 May 1845, No. 267, Part III. page 3.

The agitation, however, produced in the colony by the promulgation of my notice of the 2d April 1844, caused me quickly to see that the interference of Parliament could not be avoided; and as early as on the 16th April 1844, I stated very explicitly to your Lordship, in the concluding part of my despatch, No. 84, that in my opinion, unless statutory rules of some sort were laid down by Parliament for the management of the unsold lands of the Crown in this colony, those lands would be lost.

Ditto 16 April, No. 84, ditto, page 17.

The object which I chiefly had in view in April 1844, and which I thought might be achieved without the interference of Parliament, was to afford to the occupiers of Crown lands the means of obtaining on terms which I considered easy, a freehold interest in portions of their runs, to which I gave the name of "homesteads;" and a second object, second only in importance to this, was to avoid giving leases of Crown lands.

Leaving unnoticed minor objections to the leasing of Crown lands which, in the present state of the question, may be considered unimportant, I wish distinctly to state, that my main objection to leases rested on the extreme difficulty of collecting rents in New South Wales, and especially small rents, or rents separately of small amount, though collectively large. I considered that in the collection by the Government of small payments from individuals scattered over this wide territory, a system of laxity would creep in, which would shortly, as in the case of quit-rents, lead to confusion, or even to the annihilation of the revenue, unless, indeed, a degree of rigor were from the commencement established, in insisting on the rights of the Crown, which would be denounced by hundreds of agitators, as harsh, oppressive, unfeeling, despotic and tyrannical.

I did not then, nor do I now, doubt so much the power of the law to enforce the payment of rent, as I doubt the constancy of any colonial authority in disregarding the clamour which the rigid collection of rents will raise up against it, a clamour which no colonial Government will be able long to withstand, unless it be supported from home in the most effectual manner, or rather unless it be prohibited in the most effectual manner from indulging in acts of lenity and concession, or of (so called) kindness and liberality.

I have always maintained, or at least endeavoured to maintain, that the Governor of a colony has no more right to remit a payment due to the Crown, than he has to give away the property of the Crown; and that he has no more right to give away the property of the Crown (which is public property) than he has to give away any thing else which does not belong to him.

If it be said that rents may be as easily collected as the fees on licenses, I reply, that the fee on a license is an uniform payment, the same in all cases; that the amount of it, 10*l.*, is not small enough to be insignificant, nor large enough to be oppressive; that it is payable in advance, whilst rents are generally payable in arrear, that the non-payment of it is followed (under the 2d clause of the Local Act 2 Vict. No. 27), by the immediate infliction of a fine; and I must further beg particularly to refer to my despatch, No. 22, of the 29th January 1845, in Mr. Smith's case, to show that in no single instance during the whole period of my government have I knowingly allowed a fee to remain unpaid, or remitted the fine which may have been imposed in consequence of the non-payment of the fee.

Having thus fully laid before your Lordship the grounds on which I have hitherto opposed the granting of leases, I think it right, as fully and as freely to say, that I think the time is now arrived when the granting of them must be conceded. It is scarcely necessary for me to say, that I prefer greatly leases of seven years to leases for any longer period. I believe I may pretty safely assert, that a lease for 21 years would in New South Wales, be, in a great majority of cases, a lease for ever.

I next pass to the consideration of homesteads.

The 7th clause of Mr. Hope's Bill, enabling the Governor to grant, without competition, leases for lands on which improvements may have been effected, must, I think, be regarded as a boon to the squatter, and (the principle of leases being admitted) as an improvement on the measure of last year.

The fixing (without competition) of the amount of rent to be paid for the homestead, will indeed impose a very difficult duty on the Governor; but it is one which he must be prepared to discharge fearlessly, and without favour.

It is essential, however, to remark, that the leasing of homesteads will not remove the great evil of which the squatters, before the issue of my regulations of April 1844, were accustomed to complain, namely, their inability to acquire a fixed, that is to say, a freehold interest in the portions of land on which they are compelled to erect their habitations; and it will, moreover, only tend in a slight degree to remove or lessen the social and moral evils which are described in my despatch of the 3d April 1844, as so fearfully growing up in the pastoral districts of the colony.

The scheme for the sale of homesteads was brought forward by me with a sincere desire to confer a boon upon the squatters, and only remotely and contingently as a means of increasing the revenue of the Crown. It has, with some degree

degree of adroitness, been construed into an attempt to compel persons to purchase lands which they do not want; and I therefore am well satisfied to find that it will, under Mr. Hope's Bill, form no necessary part of the system to be established.

The right of the Crown to sell homesteads will, however, still, I apprehend, remain, and I think it very essential that it should remain; but there will be no longer any necessity for giving to the actual occupier, or to any other individual, a right, under any circumstances, to compel the Crown to sell. The right of a squatter to compel the Crown to sell him his homestead* was a part of my plan, which I brought forward with the greatest reluctance, and of the successful working of which I was more doubtful than of any other part of it.

Your Lordship is, I perceive, in some degree apprehensive, that evil may result from the existence of such isolated freeholds, or (as they might be called) *enclaves*, in the domain of the Crown.

Without contending that this may not by possibility to a certain extent be the case, I may observe, that I scarcely know any other means by which the growth of villages, or even the erection of durable buildings of any sort can be encouraged, unless, indeed a system of building leases were to be introduced, which would, certainly, in my opinion, be not less objectionable. And as building-leases have, I believe, been suggested, I feel it right to observe, that as the reserved or ground-rent of each separate building would, of necessity, be small, the collection of these rents would be very difficult, and the evil of having small rents to collect be greatly increased.

As a general rule, I am disposed to think that no rent less in amount than 10*l.* per annum should in any case be reserved to or collected by the Crown; or, in other words, that no tenant holding direct from the Crown should pay less than 10*l.* per annum.

The power proposed to be given by the 6th clause of the Bill, to levy agistment on cattle or sheep pastured on Crown lands by a licensed person, in lieu of charging to the same person a fee on his license, is an alteration which I always desired to see introduced, provided the subject were made one of Imperial Legislation.

I objected on a former occasion to agistment, if levied by the sole authority of the Crown, because I considered it would in such case be confounded with assessment, which is a tax levied by the Colonial Legislature for the support of the police.

Agistment, indeed, will not act as a restraint on the greediness of squatters for extensive runs, since the same agistment will be payable on 1,000 sheep, whether pastured on 1,000 or 100,000 acres of land; but the disposal of runs, or rather of the leases of runs, by competition at auction, may be expected to ensure a rent for the land, proportioned, not to the quantity of stock actually pastured on it, but to its capacity for feeding stock. We know not, however, as yet the extent to which the leasing of runs may be carried; there will probably be a disinclination among squatters to see their runs exposed to auction, and the local Government may not improbably find it expedient to continue the present system of licenses. For these reasons the power ought to be (and I understand it is proposed to be) left to the Government, of charging a fee, as at present, on licenses; and it is to place this beyond doubt, that I have proposed the addition of a few words in the 4th clause of the Bill.

In order not to burthen this despatch unnecessarily with details, I have marked on a copy of the Bill the amendments which I venture to propose in it; and I shall have the honour to transmit this copy to your Lordship with a separate despatch.

I have, &c.

(signed) *Geo. Gipps.*

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* My regulations do not give this right absolutely; but they virtually recognize it.

— No. 15. —

(No. 5.)

Copy of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

No. 15.
Governor Sir George Gipps to Lord Stanley, 10 January 1846.

Bill and suggestions.

Government House, Sydney,
10 January 1846.

My Lord,

With reference to my despatch of this day's date, No. 4, I have the honour herewith to enclose a copy of the Bill which was introduced towards the close of the last Session, by Mr. Hope, into the House of Commons, and on which I have marked the amendments which I would venture to suggest in this measure.

On the first three clauses no amendments appear to me to be required.

In the 4th clause, I have proposed the adoption of two provisoes, and the omission of certain words which will be rendered unnecessary by the adoption of the first of these provisoes.

The object of the first proviso is one of mere official convenience, and may be thus explained;—as the clause now stands, a license for the occupation of Crown lands during a period of 12 months, say from the 1st July 1846 to the 30th June 1847, could not be issued in Sydney before the 1st July 1846, because the 12 months must be reckoned from the date of the document; but the convenience of the party receiving the license, as well as that of the Government granting it, may, and most probably will require, that it be issued as early as the 1st May 1846, and the power so to issue it is proposed to be given by the first proviso.

The object of the second proposed proviso is simply to put beyond doubt the power of the Government to charge a fee on a license, whenever it may be more desirable to do so, than to charge agistment.

In the 5th clause, which is framed on the first clause of the Local Crown Lands Act, 2 Vict., No. 27, I have proposed the insertion of the words "or by pasturing on such lands any sheep, horses or cattle;" and if adopted, these words will compensate in some degree for the loss of the impounding clauses, which I find are not introduced into the proposed Bill.

In the same 5th clause, I have proposed words to fix the minimum of the fine to be imposed for a second or third offence.

I consider the introduction of these words to be highly essential, in fact, without them, I believe the clause would be of little value. In the local Act (2 Vict., No. 27) the penalties for a second and third offence are fixed absolutely at 20*l.* and 50*l.* without any power of mitigation by the magistrate. It is to be recollected, that not only Crown Commissioners, but ordinary (unpaid) magistrates who are themselves squatters, have often to adjudicate in such cases.

In the 6th clause I have proposed some alterations, in order to assimilate the charges for agistment to those which are levied by assessment for the support of the police, under the 16th clause of the Local Act, 2 Vict., No. 27. It will be considered a hardship in the colony if agistment be levied on stock under six months old.

In the 7th clause I have proposed an amendment, in order to show, that homesteads only, and not runs, are to be let without competition.

After clause 8, I have proposed the introduction of a new clause, declaring that the Lords of the Treasury shall have power to apply, or to direct the application of one-sixth part of the net revenue derived from rents, licenses, royalties and agistment (not from the sale of land) to the purposes of public worship in the squatting districts; but on this subject I have more fully explained myself in a separate despatch of this day's date, in reply to your Lordship's despatch, No. 101, of the 29th August 1845.

In the remaining clauses I do not find it necessary to propose any amendments.

I have, &c.

(signed) *Geo. Gipps.*

Enclosure

Enclosure in No. 15.

A BILL to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further Provision for the Management thereof.

(NOTE.—The words printed in *italics* are proposed to be inserted in Committee.)

WHEREAS by an Act passed in the Session of Parliament held in the fifth and sixth years of the reign of Her Majesty, intituled, "An Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies," provision is made for the conveyance and alienation of such waste land:

And whereas doubts have arisen whether, under that Act, Her Majesty or any person acting in the name and on behalf of Her Majesty, can convey or alienate any waste lands of the Crown in any such colony by lease or demise, reserving an annual rent or payment for the same:

Cl. 1. Be it therefore enacted and declared, by the Queen's most excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, that nothing in the said recited Act contained shall extend or be construed to extend to prevent Her Majesty or any such person acting in the name and on behalf of Her Majesty as aforesaid, from demising for a term of not more than *seven* years any waste lands of the Crown in any such colony, at an annual rent payable to Her Majesty by the lessee for and in respect of such lands: provided always, that all leases so to be made and granted shall contain clauses of forfeiture and provisoes for re-entry for non-payment of such rent, or for underletting or assignment of the whole or any portion of such lands by such lessee, without license in that behalf first obtained from Her Majesty or such person acting in the name and on the behalf of Her Majesty as aforesaid, and shall be offered by public auction to the highest bidder for the same, after due notice of such public auction given as in the said recited Act is directed, together with a specification of the lands intended to be demised, and of the duration of the proposed term: and provided also, that during the continuance of any such lease it shall not be lawful for Her Majesty or any such person acting as aforesaid to sell the reversionary estate expectant upon the determination of such lease without the consent in writing of the lessee or other party to whom the lease may then belong.

Cl. 2. And whereas doubts have also arisen whether in carrying into execution the provisions of the said recited Act Her Majesty, or any such person acting in the name and on the behalf of Her Majesty as aforesaid, is at liberty to reserve, to and for the use of Her Majesty, any portion of the minerals lying in or under any such lands; be it enacted and declared, that nothing in the said recited Act shall extend or be construed to extend to prevent Her Majesty or any such person acting in the name and on the behalf of Her Majesty as aforesaid from reserving to and for the use of Her Majesty, in any conveyance or alienation as aforesaid, or in any lease of any such waste lands as aforesaid, the whole or any portion of the minerals lying or being in or under any such lands, or any rents or royalties to be paid or rendered in respect thereof.

Cl. 3. And be it enacted, that from and after the day when this Act shall come into effect in the

AMENDMENTS proposed by Sir *George Gipps*.

(*Note*.—The amendments are distinguished by being printed within brackets [ ].)

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the manner hereinafter mentioned, so much of the said recited Act as relates to the granting, under certain conditions therein mentioned, of licenses for the occupation of any waste lands of the Crown in any of the said colonies, and for felling, removing and selling the timber growing on any such lands, shall be repealed: provided always, that nothing herein contained shall render invalid any license which shall or may have been granted previously to the day when this Act shall come into effect.

Cl. 4. And be it enacted, that from and after such day as aforesaid, the Governor of any of such colonies shall have the power to grant to any person a license for any time not exceeding *twelve* calendar months ~~from the date thereof,~~ to become and be an occupier of waste lands of the Crown in such colony, or a license for felling, removing and selling timber growing on waste lands therein.

["Provided always, that the twelve months for which such license shall be in force shall commence on a day to be named in the said license, which day shall not be more than two months after the day on which the license is issued: provided also, that such license may be granted either on the payment of such a sum as may be agreed on, or on condition of the payment of agistment as hereinafter provided."]

Cl. 5. And be it enacted, That from and after such time as aforesaid, any person, unless claiming under a sale or lease as aforesaid, who shall be found occupying any waste lands of the Crown in any of the said Australian colonies, either by residing or by erecting any hut or building thereon, or by clearing, inclosing or cultivating any part thereof, ^ and who shall not previously have obtained a license from the said Governor for the occupation of such lands, or who shall occupy as aforesaid, after such license shall have been determined by forfeiture or otherwise, shall be liable, on conviction thereof, to the penalties following; that is to say, for the first offence, a sum not exceeding *ten pounds*; for the second offence, a sum not exceeding *twenty pounds* ^; and for the third or any subsequent offence, a sum not exceeding *fifty pounds* ^; provided always, that no information shall be laid or brought for any second or subsequent offence, until the expiration of *fourteen* clear days from the date of the previous conviction.

Cl. 6. And be it enacted, that any person or persons occupying any such waste lands under such license as aforesaid, which shall have been granted without fee or payment for the same, shall pay by the year such a sum, not exceeding *one penny* for every sheep, and *three-pence* for every ~~horse and~~ head of horned cattle ^ depasturing upon the waste lands of the Crown, as shall be fixed by Her Majesty in Her Privy Council, or by the Governor of such colony, with the advice of his Executive Council ^.

Cl. 7. And whereas in the colony of New South Wales, there are certain waste lands of the Crown situate beyond the limits allotted to settlers for location in the said colony, which are now occupied under license, and upon which improvements have been made by and at the expense of the occupiers thereof: and whereas it is expedient that certain portions of such lands so improved shall be let on lease to the occupiers thereof, without offering the same by public auction to the highest bidder, as hereinbefore provided; be it therefore enacted,

AMENDMENTS.

It is proposed to omit the words, "from the date thereof," and to add to the clause two provisoes.

[^ "or by pasturing on such lands any sheep, horses or cattle."]

[^ "or less than 10*l.*"]

[^ "or less than 20*l.*"]

[^ "and 6*d.* for every horse."]

[^ "provided, however, that no payment shall be made for any unweaned lambs, or for any horses or cattle under six months old."]

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enacted, that when any waste lands of the Crown, situate beyond the limits allotted to settlers for location in the said colony, shall have been occupied by any person under such license as aforesaid, for a period of not less than *five* successive years then next preceding, it shall be lawful for the Governor of the said colony, if he shall think fit, to demise such lands, or any part of such lands so occupied as aforesaid, to such persons for a term of not more than *seven* years, at such an annual rent as shall be fixed by the said Governor, by and with the advice of the Executive Council, without offering such lease by public auction to the highest bidder, as hereinbefore provided: and provided always, that all leases so to be made and granted shall contain clauses of forfeiture, and provisoes for re-entry for non-payment of such rent, or for under-letting or assignment of the whole or any portion of such lands by such lessee, without license in that behalf first obtained from Her Majesty, or such person acting in the name and on the behalf of Her Majesty as aforesaid.

Cl. 8. And be it enacted, that, subject to the charges in the recited Act mentioned, which shall be incurred in carrying into effect the provisions of that or of this present Act, the gross proceeds of the sums so paid for licenses and for agistment, when such licenses shall have been granted without fee or payment for the same, and of the rents, royalties, and other payments to be made and rendered under the provisions of this Act, shall be appropriated and applied to and for the like purposes as the proceeds of the sales of the waste lands of the Crown in each of the said colonies are appropriated and applied under and by virtue of the provisions of the said recited Act.

["Provided however, and be it enacted, that nothing in the said recited Act, or in this Act contained, shall be construed or held to prevent the appropriation, in aid of public worship within the said colony, of a portion of the rents, royalties or other monies to be received under this Act; provided that such appropriation be made by or under the sanction of the Lords of Her Majesty's Treasury, or any three of them, and that the sums so appropriated do not exceed in any year one-sixth part of the proceeds of the said rents, royalties and other payments under this Act, which may remain after payment of the charges incurred in carrying the provisions of this Act into effect."]

Cl. 9. And be it enacted, that if at any time the royalties reserved on minerals, or the moneys payable for agistment, shall be in arrear and unpaid, the like remedy shall accrue to Her Majesty for recovery thereof by distress, as for the recovery of money rent reserved by lease; and if at any time the yearly sum payable by any person for agistment under and by virtue of the provisions of this Act, shall be in arrear and unpaid for the space of *three* calendar months, the license of such person to occupy such waste land as aforesaid shall become forfeited.

Cl. 10. And be it enacted, that no possession or occupation of any land taken or had under or by virtue of any license as aforesaid, shall be construed to give any title whatever against the Crown, or to alter or affect the rights of Her Majesty, Her heirs and successors, in respect to any such land.

Cl. 11. And be it enacted, that the penalties hereinbefore imposed by this Act, where not otherwise

AMENDMENTS.

["not exceeding the quantity of 320 acres."]

(These words may be necessary, in order to point out that homesteads only, and not entire runs, are to be let without competition.)

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otherwise provided for, shall be recovered in a summary way before any one or more justice or justices of the peace, upon the information or complaint on oath of any justice of the peace, or of any owner or proprietor of land, or of any person holding any lease or license for the occupation of Crown land, or of any bailiffs or officers appointed by any justice of the peace as aforesaid.

Cl. 12. And for the further protection of persons acting in execution of this Act; be it enacted, that all actions or other proceedings for anything done under this Act, shall be commenced within *six* calendar months after the matter complained of was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant *one* calendar month at least before the commencement of the action; and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any action if tender of sufficient amends shall have been made before such action was brought, or if a sufficient sum of money shall have been paid into court after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant, or the plaintiff become nonsuited, or discontinue such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases; and although a verdict shall be given for the plaintiff in such action, such plaintiff shall not have costs against the defendant unless the judge before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Cl. 13. And be it enacted, that no order, judgment or other proceeding made touching or concerning any of the matters aforesaid, or touching and concerning the conviction of any offender or offenders against this Act, shall be quashed or vacated for want of form only, or be removed or removable by certiorari, or any writ or process whatever, into any superior court of jurisdiction in any such colony.

Cl. 14. And be it enacted, that the words "Australian Colonies," as employed in this Act, are intended to describe the same colonies as in the said recited Act are mentioned, with their respective dependencies, as such colonies are now or shall hereafter be defined and limited, and any other colonies which may hereafter be established as in the said recited Act they are mentioned; and that the word "Governor," as employed in this Act, is intended to describe the same person as in the said recited Act; and that the words "waste lands of the Crown," as employed in this Act, are intended to describe any lands in the said colonies, whether within or without the limits allotted to settlers for location, and which now are or shall hereafter be vested in Her Majesty, Her heirs and successors, and which have not been already granted or lawfully contracted to be granted by Her Majesty, Her heirs and successors, in fee-simple to any person or persons, or for an estate of freehold or for a term of years, and which have not been dedicated and set apart for some public use; and, in directing any person or thing, any word importing the singular number shall

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shall be construed to mean several persons or things respectively, unless there be something in the subject or context repugnant to such construction.

Cl. 15. And be it enacted, that this Act shall take effect and have the force of law in each of the Australian colonies from and after a day to be specified by the Governor of each such colonies, in some proclamation to be issued by him for that purpose.

Cl. 16. And be it enacted, that this Act may be amended or repealed during the present Session of Parliament.

— No. 16. —

(No. 7.)

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

No. 16. Governor Sir George Gipps to Lord Stanley, 10 January 1846.

Government House, Sydney,
10 January 1846.

My Lord,

I HAD the honour on the 4th instant to receive your Lordship's despatch, No. 100, of the 8th August 1845, wherewith was enclosed a copy of the Report on questions relating to the occupation of Crown lands in Australia, which was addressed to your Lordship on the 4th of the same month by the Commissioners for Colonial Lands and Emigration. Page 14.

I have read this Report with much interest, and beg to offer my humble testimony to the great care and attention which the Commissioners have evidently given to the subject. Their criticisms are generally fair, their conclusions, I think correct; and in their observations they display a knowledge of the subject, which in the minds of all candid persons in this colony must excite admiration.

As, however, I have in my despatches, Nos. 4, 5 and 6, of this day's date, touched, I believe, upon every question of interest, which in the present state of the discussion can be considered an open one, I feel it unnecessary to follow the Commissioners through the details of their Report.

I have, &c.

(signed) *Geo. Gipps.*

— No. 17. —

(Confidential.)

EXTRACT of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*, dated Government House, Sydney, 12 January 1846.

No. 17. Governor Sir George Gipps to Lord Stanley, 12 January 1846.

I HAD the honour on the 4th instant, to receive your Lordship's despatch of the 31st August 1845, marked "Private and Confidential."

Having in my public despatches of the 10th instant, Nos. 4, 5, 6 and 7, reported on all the points in the Bill introduced by Mr. Hope into the House of Commons at the close of the last Session, which appeared to require comment from me, the first subject on which I have to address your Lordship in my present communication is, the renewal or non-renewal of the Local Crown Lands Act, 2 Vict. No. 27, which will expire on the 30th June next; and as connected with this subject, I am happy in the first place to be able to report to your Lordship, that though the withdrawal of the Bill which was introduced by your Lordship in the House of Lords, in the course of the last Session, was undoubtedly

a disappointment to me, I do not apprehend that any serious inconvenience to my Government will be occasioned by the postponement of the measure.

I shall now proceed to notice, seriatim, the points touched on by your Lordship, in the despatch to which I am replying; and I have first to notice "the possibility of trusting to the powers of the Crown to enforce obligations contracted by lessees."

On this point I trust I have sufficiently explained myself, in my public despatch, No. 4, and I feel it only necessary to repeat, that much must depend on the nature of the instructions (and particularly on the stringency of them) which may be given by the Secretary of State to the Governor. Bearing in mind the laxity which heretofore prevailed in the collection of the revenue derivable from Crown lands, the principle should be distinctly laid down, that the Governor has no more right to remit a payment due to the Crown, or to neglect to enforce it, than he has to give away anything which is not his own.

Secondly, "As to the powers necessary for the protection of unsold lands."

Having proposed to insert in the 5th clause of Mr. Hope's Bill, the words, "or by pasturing on such lands any sheep, horses or cattle," I feel it right to explain that these words will, if adopted, have an effect within the boundaries, which may not be understood in England.

Persons under the 1st clause of the Squatting Act (2 Vic. No. 27) can, within the boundaries, be fined only when illegally in the occupation of Crown lands, by cultivating a portion of them, or by erecting on them any fence or building; for simply pasturing cattle or sheep on them they cannot be fined, and the consequence is, that so long as a proprietor keep his buildings and stockyards or sheepfolds on his own land, he can allow his sheep and cattle to stray at will over the neighbouring lands of the Crown. This cannot, of course, be the case beyond the boundaries, because as yet there are no lands beyond the boundaries which are not the property of the Crown.

The adoption of my proposed words will force the proprietors of lands within the boundaries, to pay rent for any adjoining Crown lands, on which they may desire to pasture their stock; and I consider it right that they should be forced to do so.

The following passage on this subject is taken from the remarks on the Crown Land Grievance Report, transmitted with my despatch No. 215, of the 30th September 1844, and is to be found at page 16 of the Parliamentary Paper, printed for the use of the House of Commons, No. 372, of 1845:—

"To a person unacquainted with New South Wales, nothing would appear more equitable, than that if a proprietor allow his cattle to stray off his own land, and on to his neighbour's, he should be compelled to make some compensation to his neighbour, or enter into some agreement with his neighbour, in order that his cattle so straying, might not be molested, driven back or impounded. But in New South Wales the neighbour is very frequently (generally, indeed it may be said) the Crown; the neighbouring lands are Crown lands, and the laws of the colony, made by landed proprietors, have been so framed (especially the impounding laws), as to exempt Crown lands from the protection which is afforded to lands the property of individuals.

"It is avowedly a part of my plan for the management of the Crown lands of the territory, to give to Crown lands the same protection in respect to the impounding of cattle, as is enjoyed by private proprietors; but the law at present does not give it them."

As, however, this matter is of considerable importance, whilst I beg leave to urge the insertion of the proposed words in the 5th clause of Mr. Hope's Bill, I feel it right also to forward to your Lordship a copy of a paper on the subject from the Colonial Secretary, who takes in some respects a different view of the matter, or a view more favourable to the proprietor of private lands.—(See Appendix to this despatch, marked (A.)

(A.) 12 January 1846.

Thirdly, The extent of land which ought to be comprised in leases, and the conditions on which leases should be granted.

The way in which I understand Mr. Hope's Bill is, that homesteads, or lands having on them improvements, may, under the 7th clause, be leased for seven years

years without competition, and that entire runs also may, under the 1st clause, be leased for an equal period, but that the leases of the latter (or of runs), must be disposed of by competition at auction.

The size of homesteads, or of lands to be let without competition, should I think be fixed at half a section, or 320 acres, and it may be necessary to insert this limit in the 7th clause, though it can be done equally well, and perhaps more conveniently, in the shape of a Royal instruction to the Governor.

I think the lease of the homestead should confer on the lessee, the right of cultivating, but not of subletting any part of it, at least the right of subletting should not be given during the first term of seven years, or if given, the rent should be proportionally increased.

The rent of a homestead of 320 acres, to be granted without competition, and conferring the right of cultivation, I would propose to fix for the first seven year at 16*l.* per annum; being five per cent. on the value of the land at the minimum price of 1*l.* per acre.

The Government should have the power of granting such a lease only to a person who had been five years in authorized possession of the land, though in the case of a person who had come into possession of the land by inheritance or devise, the occupation of the prior holder might be reckoned as his occupation.

If I rightly understand Mr. Hope's Bill, runs are not to be let, except by public competition, and I consider this a salutary provision. I foresee, indeed, that a struggle will be made to procure leases of runs as well as of homesteads, without competition; but if this be conceded, a discretionary power must be given to the Governor, the exercise of which will impose on him a fearful responsibility, a degree of responsibility, which I am disposed to think should not be imposed on any man; and I therefore advise, that the Bill be passed as it at present stands, with a power, that is to say, of letting homesteads by private bargain, but runs only by public competition; the minimum, or upset price of the run without the homestead, that is to say, where the homestead is let separately or without competition, should be 10*l.* per annum; but if there be no separate homestead, or if the homestead and run be put up together, the upset price of the whole should be 15*l.* per annum.

As, however, the present occupiers of runs will very reluctantly see them exposed to auction, it is not impossible that they will prefer keeping them on their present tenure, that is to say, on annual license; a question will then arise, whether a run shall be brought forward for lease by auction, against the wishes of the person occupying it on license; and I am disposed to think, that for the present at least, no run should be disposed of by lease at auction, except on the application of the occupier; unless, indeed, the occupier may have done something to render the renewal of his license inexpedient, or there be something in the case of an extraordinary nature.

In no case should a run be let on lease, even by auction, which has not been occupied on license by some person or other for at least five years. This regulation is necessary at once to prevent persons who may, with the permission of the Governor or of the Commissioner, have formed new runs (perhaps at considerable expense) from being suddenly or unfairly dispossessed of them; and also to prevent persons who may form new runs without the permission of the Governor or of the Commissioner, from obtaining a lease of them, and thereby retaining possession of them in spite of the Commissioner.

The extent of runs cannot, I think, be defined in the Act; but it may as a general rule be limited by Royal instructions, to the extent necessary for pasturing in ordinary seasons, 4,000 sheep, as set forth in the regulations which I caused to be published on the 10th July last, and which were transmitted to your Lordship with my despatch No. 121, of the 2d August 1845. Page 3.

The power now proposed to be given to the Governor to charge agistment, instead of a license fee, and still more the power in an extreme case to refuse a license, and to insist on disposing of the run by lease at auction, will powerfully aid the Government, in keeping runs within a reasonable size, or at least, in destroying the unfair advantages which the holders of inordinately large runs now enjoy.

It was objected to in my scheme for purchasing homesteads, that the total annual charge would be nearly 67 *l.*, namely, the license fee - £. 10 – –
Assessment (on 4,000 sheep) - - - - - - 16 13 4
One-eighth part of the purchase of a homestead of 320 acres - - - - - - - - - - 40 – –

TOTAL - - £. 66 13 4

Fourthly. In respect to the amount of agistment, I see no reason to object to what is proposed in the Bill. There will, of course, be no agistment where there is a lease.

Fifthly. The difficulty which I formerly stated in respect to stock depastured on a purchased homestead, must, I apprehend, be left for settlement in the colony; wherever a lease is to be granted, it can be provided for by a covenant in it.

Sixthly. Building leases; on this head, I can add nothing to what I have said in my public despatch. I decidedly think that the introduction of them at present, would be premature.

Seventhly. On the question of pre-emption, I can add nothing to what I have said on former occasions. I have thought much on the subject, without being able to hit on any scheme, by which it could be granted without danger; and the concession of leases will I hope cause the demand for it to be laid aside, at any rate for the present.

The proposal to give any privilege, in the nature of a pre-emptive right, to the discoverers of rivers, or of valuable tracts of land, would, I feel confident, lead to interminable disputes.

The disposition to roam in search of water or pasturage, is sufficiently strong already, and requires no incentive from the Government.

I have already recommended that persons who may, with the permission of the Commissioner of any district, form new runs, shall not be disturbed in the possession of them for five years; no advantage beyond this, should I think be granted to them.

Eighthly. The powers of the Commissioners of Crown lands.

On this subject, I need only refer to what I have said in the beginning of this despatch, namely, that the powers now so greatly complained of, were originally given at the request of the squatters themselves, for the purpose of checking the spirit of litigation which unhappily pervades this whole community, and which constitutes in reality a greater evil than all the grievances, real or imaginary, complained of in the recent addresses of the Council.

It remains for me only to touch upon two other points, which strike me as being of importance.

1st. I trust nothing will be introduced into the Act tending to shackle the local Executive, either in continuing or discontinuing the distinction which new exists, in respect to the lands within, and those beyond what are called the boundaries of location. There is nothing at present in the Bill to do so.

For Sir George Gipps' Despatch, 3 April 1844, No. 75, *vide* Papers ordered by the House of Commons to be printed 1 May 1845, No. 267, Part III., page 3.

2d. There is nothing in the Bill to prevent the carrying out my plan for the sale of homesteads, developed in my despatch of the 3d April 1844, giving to the licensed occupier the value of his improvements; and I hope nothing will be introduced into the Act to do so, unless, indeed, it be thought on mature deliberation, that my whole scheme, in respect to homesteads, is objectionable.

Enclosure in No. 17.

(A.)

MEMORANDUM for His Excellency the Governor.

Encl. in No. 17.

IN reference to the proposal of his Excellency the Governor to insert in the 5th clause o Mr. Hope's Bill, for the amendment of the Crown Lands Act, the words, "or by pasturing on such lands any sheep, horses or cattle," I beg to offer to his Excellency, in compliance with his request, the following observations, showing the objections which I entertain to the adoption of this amendment.

In the local Act, 2 Victoria, No. 27, a distinction is made between leases or licenses to occupy Crown lands within and beyond the boundaries of location.

There are separate clauses having reference to the two cases, which have hitherto differed, in consequence of there being different regulations applicable to each.

I perceive

I perceive that in the Bill introduced into Parliament by Mr. Hope, at the close of the last Session, no such distinction is intended to be made.

To constitute an offence under the local Act, 2 Victoria, No. 27, s. 1, within the boundaries of location, it is not sufficient merely to pasture stock upon Crown lands, but the same must be "occupied by residing or by erecting any hut or building thereon, or by clearing, inclosing or cultivating any part thereof," without holding a valid license. Whereas, by the 2d clause, any person found occupying Crown land beyond the boundaries, without a lease or license for pasturing cattle, is subject to the penalties thereby imposed.

It will be perceived that simple occupation in the latter case, without any of the acts necessary to constitute an offence within the boundaries, subjects the intruder to the penalties of the Act.

The object of the insertion of the words "occupying any such Crown lands by residing or erecting a hut, &c.," appears to have been to give the privilege to the purchasers of land within the boundaries, to depasture their stock without payment of rent on the Crown lands immediately adjoining their purchased lands, so long as they remained vacant. All the Crown lands within the boundaries have, however, been subject to be put up, on the application of any individual, to annual lease or license, and sold to the highest bidder.

The high rate of 5*l.* per section, as the upset price, has certainly for the last few years given a monopoly of these lands to the adjoining proprietors, but the intended reduction to 1*l.* per section will again expose them to public competition.

If the words be introduced as proposed by the Governor, that the "pasturing of sheep, horses or cattle" shall constitute an offence, I think that the proprietors of land within the boundaries will be subject to great hardship, and that the effect of such an enactment would be to confirm the indisposition which at present so generally prevails, to purchase land at the present minimum upset price, so long as the words under which an offence is constituted by the local Act are retained, the privilege must to a certain extent be a limited one of depasturing the Crown lands in the vicinity of purchased lands, for without doing some one of the acts which constitute an offence, neither sheep nor cattle could be depastured at any great distance from such purchased lands. They probably never would have been bought in the great majority of cases, except for this privilege. and it seems to be scarcely equitable towards those who have already purchased, or politic as regards future purchases, to make any alteration in the present state of the law. I am quite certain that the proposed amendment never could be enforced without the adoption of the most stringent measures on the part of the Government, and another fruitful source would thus be raised up of collision with a large and influential class of the inhabitants, a class moreover that has contributed more than any other to the land and immigration fund.

My objection to the words proposed to be inserted by the Governor, namely, "the pas turing of any sheep, cattle or horses," has reference to the lands within the boundaries; as regards those beyond, I think they may very properly be introduced, and are indeed quite necessary. Moreover their introduction will not cause any alteration of the law in respect to the latter.

Colonial Secretary's Office, Sydney,
12 January 1846.

(signed) *E. Deas Thomson.*

—No. 18.—

(Separate.)

Copy of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
17 January 1846.

No. 18.

My Lord,

With reference to my recent despatches to your Lordship, on the subject of Mr. Hope's Bill, I think it right to explain that nothing has been done by this Government on the subject of squatting, since my despatch of the 2d August 1845 (No. 121) was written. In that despatch I informed your Lordship that a proposal to reduce the size of homesteads from 320 to 160 acres, had been made to the Government. I found shortly afterwards, that I should be strongly pressed on this point; but at the same time I came to the conclusion (and in it I was supported by the Bishop of Australia), that the reduction could not safely be made, and that it was moreover doubtful, whether such a reduction would in the end be beneficial to the squatters themselves.

Governor Sir George Gipps to Lord Stanley, 17 January 1846.

Page 3.

Not long afterwards the Bill arrived in the colony, which was introduced by your Lordship into the House of Lords in July last, and thereupon all proceedings in the Executive Council were suspended.

It consequently follows, that since the issue of the notice of the 10th July last, reported in my despatch of the 2d August (No. 121), the measures which I have adopted in respect to squatting, have been confined to the making of preparations in the survey department for the opening some new counties, and for the regulations of runs. My object has been to do nothing prematurely, but to be,

be, as far as possible, prepared for the Act of Parliament whenever it may arrive in the colony.

I am happy to be able to add, that the fees on licenses which became due in September last, under my notice of the 10th July 1845, have been punctually paid; and that the revenue derived from these fees in 1845, exhibited an increase on the year 1844, of 12,208 *l.*

The comparative account of the two years, stands thus:—

	1844.	1845.	Increase.
	£.	£.	£.
Old parts of the colony - -	10,175	18,000	7,825
Port Phillip - - - -	9,648	14,031	4,383
Increase in 1845 - - £.			12,208

I have, &c.
(signed) *Geo. Gipps.*

—No. 19.—

No. 19. Governor Sir George Gipps to Lord Stanley, 21 January 1846.

(No. 16.)

Copy of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
21 January 1846.

My Lord,

Page 54. With reference to my despatch (No. 5) of the 10th instant, in which, in conformity with your Lordship's directions, I reported my opinions on various parts of the Bill introduced into Parliament by Mr. Hope, to regulate the occupation of the unsold lands of the Crown in this colony; I have now the honour to enclose, as illustrative of this subject, a copy of a document which has recently come into my possession, namely, a report made by Mr. Roderick Mitchell, an Assistant Commissioner of Crown Lands in the district of Liverpool Plains, to Mr. Francis Allman, the Commissioner of the same district, and consequently his immediate superior.

23 November 1845, (with a Lithographic Sketch of the Squatting District).

I beg, however, to explain, that I forward this document, not because I attach any peculiar importance to it, but because it shows what squatting is in the remote district of this colony; and may tend to confirm the opinion which Page 54. I have decidedly expressed in my despatch (No. 5.) of the 10th instant that power ought to be left to the local authorities to continue the present system of occupation on license, especially in parts wherein it would be impossible to introduce leases.

I have, &c.
(signed) *Geo. Gipps.*

Enclosure in No. 19.

Encl. in No. 19.

Ullambine, Junction of Barwan and Namoi Rivers.

Supposed to be nearly in Latitude 30° and Longitude 148°.—(*See* the accompanying Map.)

Sir,

23 November 1845.

I have the honour to notify to you, that I have arrived thus far on my journey down the Barwan River, having found every thing quiet on the upper station, and more especially on the Mooni Creek, where hostility on the part of the natives was so much apprehended. I have visited the Tarrembul or Tambull station, the highest ever occupied on the Barwan River, and recently granted * to Mr. Edward Doyle, formerly occupied and abandoned by Mr. S. Cook, in consequence of the repeated attacks made by the aborigines upon his men and cattle. Having found it to be entirely covered with dense scrubs, and naturally unfitted for immediate occupation, I would respectfully recommend that Mr. Edward Doyle be prohibited from taking his stock to or risking further loss of life, by placing men at this station. To give you some idea of the character of this run, I would mention, that I passed through 18 miles of interwoven Bugalo scrub, rendering it necessary for myself and men to dismount and lead our horses.

* On license.

The

The natives on the Mooni Creek and elsewhere having informed me that six white men had recently been killed on the Bolloon River, at a spot which they stated to be distant two day's journey, I deemed it my duty to proceed there, and ascertain if the report was correct, more especially as from the identity of the name of this river with the native name of the Condamine, it appeared probable that they might be the party of Mr. Leichardt, and the equipment of it, as described by the natives, appeared similar to that taken by him. A Bolloon native at the Mooni volunteered to accompany me. I started on the 4th instant, and made the Bolloon on the evening of the 5th, and prosecuted the inquiries relative to the purport of my journey amongst the blacks on this river and the Calgoa to the westward of it for five days, having been fortunate enough, by kind treatment, to induce them to encamp with us every night. They stated that they had never seen whites before; that they had heard, however, that two had lately been killed on the Nanan river, one on the Berie, far to the westward, and two up the Bolloon. We found at their camps some blue cloth, some tomahawks, and some wedges used as substitutes for the latter, being filed sharp to answer the purpose. There may have been many more articles amongst them of a similar nature; but I did not like to search the nets or mangas of the gins (women), as such a proceeding would have rendered further communication with them impossible.

I regret that I could not spare more time from my duty on the Barwan River, to set at rest the anxiety generally felt in consequence of the reports of the natives; but I am now satisfied that they are correct, although I have not proved them to be so.

I arrived at Gnoolamate on the Mooni Creek on the 11th instant, and recommenced the duty, in some measure interrupted by my journey to the westward, of taking a sketch of the country, and defining the boundaries of the runs; this I have effected up to the place where I am now encamped. I have kept a register of the boundaries, and given to parties who have required it a copy of the descriptions of the runs.

I have now traversed 700 miles of country, and I find, upon calculation, that 2,000 miles more will not enable me to visit every station. Our horses are in good condition, considering the work they have done, and the scarcity of grass every where. I am now pursuing my journey to Mohanna, the lowest station on this river, and as I am anxious to complete the survey of the entire district before my return to Tamworth, I trust it will not be required before the end of February or the beginning of March. Had I not been detained by various other duties, I might now have been on my way to the M'Intyre.

It is gratifying to me to be enabled to inform you that Corporal Pateal, and the men under my orders have conducted themselves in a highly praiseworthy manner, nor have I perceived any tendency on their part to that inconvenient familiarity with stockmen and assigned servants, which, too often in the case of the old police, was an impediment to the conscientious performance of their duty. I attribute this, in a great measure, to the good example of Corporal Pateal, whom I most respectfully recommend as a fit person to receive per diem the sum of 1 *s.* 6 *d.* which I perceive is likely to be given to the corporal of our division. As my return from Mohanna, and in going to the M'Intyre, I shall pass the Wee Waa, on the Namoi River, I would feel obliged by your forwarding any official or private letters to me to that place; it would be also advisable to forward there about 100 forms for Returns of Stock, &c., which I will distribute where they are required. Mr. Newman applied to me for permission to occupy ten miles of the Barwan River, which Mr. Rouse pays a license for. I directed him to await my arrival at Dungaleae, when I could personally examine it. I found, however, on my arrival there, that he had gone to you to make a second application. The run in question is Mr. Rouse's.

I found a man, named Hoy, on this river, stating that he had been merely collecting birds. Having ascertained, however, that he had been illicitly selling spirits, and not being able to fine him and confiscate the dray for want of evidence, I ordered him to leave the district at once. He is in every way a most disreputable person. As the police duty on the Namo. River is likely to be heavy, it would be an assistance to me if the trooper Power be ordered to rejoin me at the Wee Waa.

I have, &c.

(signed) *Roderick Mitchell*, J. P.
Com. Cr. Lands.

Francis Allman, jun. Esq.,
Crown Commissioner.

J. Arrowsmith, Lith.

(0.82) Ordered by The House of Commons to be Printed, June 1846.

Luke James Hansard, Pr.

SKETCH

Shewing the Squatting Districts

IN

NEW SOUTH WALES,

1844.

Note *The boundaries of the Counties are shewn by dots thus* ••••••••
The boundaries of the Squatting Districts by pecks thus ——
The boundaries of the 19 Counties are determined by letters patent, but the others have been only provisionally proclaimed for Electorial purposes.

Longitude East from Greenwich

136 138 140 142 144 146 148 150 152 154

22 24 26 28

Tropic of Capricorn

Present Boundary of the Colony

* Supposed position of Mt. Mitchell on the 23rd Novr 1845.

Slade Pt
C. Palmerston
Broad Sd
Capt Townsend
Pt Bowen
Keppel B.
C. Capricorn
Pt Curtis
Bustard B.
Hervey Bay
Sandy Cape
Gt Sandy Ld
Wide B
Glasshouse B.
Moreton
Moreton Ld
Stradbroke Ld
BRISBANE R.
CO OF STANLEY
Moreton Bay

District of Darling Downs

Number of Stations 26
Do of acres in cultn 123
Free Population 290
Bond Do 45
Horses 446
Cattle 8267
Sheep 41024

District of Clarence River

Number of Stations 21
Do Acres in cultn 24
Free Population 207
Bond Do
Horses
Cattle
Sheep

Darling R.

NEW SOUTH WALES.
(OCCUPATION OF CROWN LANDS.)

COPIES or EXTRACTS of any CORRESPONDENCE relative to CROWN LANDS and EMIGRATION in *New South Wales*.—(In continuation of the Papers already laid before The House.)

PART VI.

LICENSED OCCUPATION OF CROWN LANDS.

(*Mr. G. W. Hope.*)

Ordered, by The House of Commons, *to be Printed,*
17 *June* 1846.

[*Price* 1*s.* 3*d.*]

399.

Under 12 *oz.*

FURTHER RETURN to an ADDRESS of the Honourable The House of Commons, dated 25 April 1845.

FURTHER CORRESPONDENCE

RELATIVE TO

CROWN LANDS IN NEW SOUTH WALES.

(In continuation of the Papers presented on the 9th of August 1844, No. 626, Part I.; No. 267, Parts II & III.; No. 372, Part IV.; No. 638, Part V., Session 1845; and No. 399, Part VI. of Session 1846.)

PART VI.—2.

LICENSED OCCUPATION OF CROWN LANDS.

Ordered, by The House of Commons, *to be Printed,*
17 *June* 1846.

SCHEDULE.

No.	Date.	Subject.	Page
1. Governor Sir G. Gipps to Lord Stanley.	4 Feb. 1846	On the present state of the Squatting Question; enclosing proposed Regulations for the purchase of Homesteads - - - - - -	3
2. Governor Sir G. Gipps to Lord Stanley.	12 Feb. 1846	Reporting on certain alleged Misrepresentations with respect to Mr. Boyd's Runs - - - - -	6
3. Governor Sir G. Gipps to Lord Stanley.	23 Feb. 1846	Forwarding a Letter from the Bishop of Australia, on the subject of the Squatting Regulations of 2 April 1844 - - - - - -	9

FURTHER CORRESPONDENCE relative to CROWN LANDS in *New South Wales*.

— No. 1. —

(No. 30.)

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

No. 1.
Governor Sir George Gipps to Lord Stanley.
4th Feb. 1846.

Government House, Sydney,
4 February 1846.

My Lord,

IN my despatch of the 17th ultimo, marked "separate," I stated to your Lordship, that nothing had been done by this Government on the subject of squatting since the date of my despatch (No. 121) of the 2d August 1845.

For Sir George Gipps' Despatch, 17 January 1846, *vide* Papers ordered by the House of Commons to be printed 17 June 1846, No. 39 page 63.

It seems to me now right to explain, that when I said *nothing had been done*, I meant nothing *official*, or which would in any manner pledge or shackle the Government; I did not mean that nothing had been done in the way of deliberation or preparation.

At meetings of the Executive Council, held on the days named in the margin "Regulations for the sale of Homesteads" were brought under discussion, and advanced to a state in which they probably would have been published, but for the arrival in the colony of the Bill which was introduced by your Lordship into the House of Lords in July 1845.

14th August 1845.
18th „
25th „
2d Sept. 1845.
15th „

I now enclose a copy of these proposed "*Regulations for the sale of Homesteads*," as they were amended in the Council; but though *amended*, I beg distinctly to repeat, that not having been finally approved, the Council is not, neither am I personally, in any manner pledged to them.

4th Feb. 1846.

But again, though not pledged to them, I believe that, if adopted, they would be found practicable and useful, especially if adopted concurrently with the proposed system of leases.

I would particularly ask attention to the paragraphs marked Nos. 2 and 3, in which it is pointed out, that it is not intended to sell homesteads in the new counties* already formed, or in any which may be hereafter formed; but that whenever new counties may be proclaimed, the Crown lands within them will be gradually assimilated, in respect to sale and management, to the other Crown lands within what are called the "*boundaries of location*."

It may be right to remind your Lordship, that within the present new counties the greater part of the land is occupied by squatters on annual license. Much deliberation took place as to whether the sale of homesteads should be permitted within them, or, to speak more correctly, whether the purchase of a homestead within them should secure to the purchaser the continued occupation of the run. The proposed regulations (par. 2), as already stated, do not hold out any such advantage to the purchaser of a homestead within the new counties; and Mr. La Trobe, after much consideration of the subject, concurred with me in thinking that it was not desirable to *sell homesteads* within the new counties.

The question may arise, whether, under Mr. Hope's Bill, leases should be granted within the same new counties; but it will be, perhaps, of little importance in what way this question be settled, provided leases be not granted *for more than seven years*, and that no lease for more than 320 acres be granted *without competition*, according to the amendment which, in my despatch No. 5 of the 10th ultimo, I proposed in the seventh clause of the Bill.

For Sir George Gipps' Despatch, 10 January 1846, *vide* Papers ordered by the House of Commons to be printed, 17 June 1846, No. 39, page 54.

I have, &c.
(signed) *Geo. Gipps*.

Enclosure in No. 1.

PROPOSED REGULATIONS for the Purchase of Homesteads.

Encl. in No. 1.

1. THE sale of homesteads has been sanctioned by Her Majesty's Government, in order afford an opportunity to every licensed occupier of Crown lands, beyond what are called the boundaries

* The new counties are—Bourke, Grant, Normanby, Port Phillip; Auckland, Twofold Bay, Stanley, Moreton Bay.

boundaries of location, to obtain a permanent or freehold interest in the land immediately surrounding the spot on which he may have fixed, or may hereafter fix his residence, together with a leasehold interest, or an interest for a term of years, for grazing purposes, for the remainder of the lands occupied by him under the name of a station or run.* A further object of the sale of homesteads is to increase the revenue applicable to immigration, without prematurely alienating from the Crown lands, which, as yet, are valuable only for their pasturage.

2. It is not, however, intended by the sale of homesteads to suspend or interrupt the more regular and progressive sale and settlement of the lands of the Crown on the system which has been long established in the colony. The sale of homesteads will therefore be so regulated as not to interfere with or prevent the gradual extension of the boundaries of location; and all lands within the boundaries of location, however those boundaries may be extended, will be administered, that is to say, brought forward for sale or lease in the same way in which lands lying within the actual boundaries of location are now, or may hereafter be, administered

3. As a general rule, the purchaser of a homestead will be entitled to the occupation of the unpurchased parts of the run for eight years, reckoned from the date of his purchase; but this rule will not extend to lands which are now held under depasturing licenses within any of the counties of Bourke, Grant, Normanby, Auckland or Stanley.

4. In order to prevent occupiers being suddenly deprived of their runs, the Government will not, during four years, reckoned from the 1st July 1845, bring forward any homesteads for sale, except on the application of the licensed occupier of the run on which the Homestead is to be sold,

5.† For the same reason, during the same four years, the purchaser of a homestead shall not take the run attached to the homestead, unless the purchaser be the prior occupier of the run, or unless the occupier shall already have purchased a Homestead in the same district, it being the intention of this regulation to give to each licensed occupier an advantage in the purchase of one homestead, but not an advantage in the purchase of more than one, as is more fully explained in the two following paragraphs ‡

6. Any licensed occupier who was in possession of his run on the 1st July 1845, and may have since that day remained in continued occupation, and may not be in arrears of any kind to the Government, may bring forward a portion, not less than 320 acres, for sale as a homestead; and if before the 1st July 1849, he become the purchaser of the portion brought forward for sale, the purchase of it shall confer on him the right of a continued occupation of his run, as that run may be settled under the regulations of the 9th July 1845, up to the 1st July 1857.

7. But if the homestead be purchased by any other person than the occupier of the run, such other person shall not take the run, unless the occupier shall already have purchased a homestead in the same district, in which case the purchaser of the homestead, though he be a stranger, shall take both the homestead and the run, and shall continue in possession of the run for eight years, reckoned from the day of his purchase.

8. This right of occupation will be secured to the purchaser by lease, if the Government is rendered competent to grant a lease; if not by lease, then in the best manner in which it may be competent to the local Government to secure to him for eight years undisturbed possession of his run. The occupation, however, will be for the purposes of grazing only, and the occupier will acquire no right to cultivate any portion of his run, except the purchased part of it.

9. The rent secured by such lease will be fixed at 10*l.* per annum, so long as the cattle, sheep, or other stock belonging to the lessee or licensed occupier shall be subject to the payment of an assessment equal to that which is now paid under the Acts of the Governor and Council, 2 Vict., No. 27, and 5 Vict., No. 1; but in the event of the assessment now payable under those two Acts being at any time discontinued, or the amount of it reduced, the right will be reserved to the Government of revising the agreement and increasing the rent.

10. In estimating the amount of the assessment to which any lessee or licensed occupier who may have purchased a homestead would have been liable under the 2d Vict., No. 27, the lessee or licensed occupier shall not be entitled to claim abatement on account of stock fed, or supposed to be fed, on his purchased land or homestead, to any greater extent than that which the extent of his purchased land may bear to the extent of his entire run; for example, if his entire run, including the homestead, consist of 20 square miles, and his homestead or purchased land consist of half a square mile, the abatement in the amount of his assessment shall be one fortieth part, and no more, of the amount which he would, under the 2d Vict., No. 27, have been required to pay if he had purchased no portion of his run.

11. After the expiration of the before-mentioned four years, reckoned from the 1st July 1845, the Government will bring forward homesteads for sale, not only on the application of the licensed occupier of the run, but also at its own discretion, or on the application of any private party; and the purchaser of the homestead, whoever he may be, will be entitled to an occupation for eight years of the run.

12. The

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* It is proposed to discontinue the use of the word "station," and by the word "run" to designate all the land which a squatter holds under a single license.

† The regulations Nos. 5, 6 and 7 have the further object of giving, for the space of four years, something in the nature of a pre-emptive right to actual occupiers.—4 Feb. 1846.—*G. G.*

‡ The object of thisr egulation will be better understood if it be explained, that it will give to the actual occupier a qualified right of pre-emption, and that it is intended to give this qualified right in respect to one run only in any one district.

12. The Government reserves to itself the right of refusing to sell a homestead in any case in which the sale of one may appear on general or special grounds to be inexpedient; and the Government will not bring forward for sale as a homestead any land on which it may seem desirable to establish a town or village, or which may be required for any public purpose. The Government will also exercise its own discretion in selling or refusing to sell homesteads in places or in the neighbourhood of places where conflicts, attended with loss of life or property, have taken place between Europeans and the Aborigines; and, as a general rule, the sale of homesteads will not be allowed on any lands which have not been regularly occupied under license for a period of at least five years.

13.* Whenever a homestead is to be brought forward for sale on the application of a person who is not the licensed occupier of the run, the person making the application shall pay to the Government as a deposit 50 per cent. of the upset price of the land, and one-half of this deposit shall be forfeited in the event of the depositor not becoming the purchaser, unless the allotment be sold at more than the full upset price of the lot, including the value of improvements, in which case the whole of the deposit shall be returned to him.

14. No homesteads will be sold until six months at least after the day on which notification of the intended sale shall be given in the Government Gazette, unless it be sold on the application of the licensed occupier of the run, in which case a notice of two months shall be sufficient.

15. In every case in which the purchaser of a homestead shall not be the licensed occupier, the latter shall be entitled to keep possession both of the homestead and the run for six months after the day of sale.

Selection of homesteads.

16. A homestead may be selected on any part of a run, and it is not necessary that it comprehend the station which may have been considered the head station on the run.

5 and 6 Vict., c. 36, s. 4.

17. The licensed occupier of a run may bring forward any portion of his run for sale, not less than 320 acres, it being understood, however, that no single lot can exceed 640 acres. If, however, a homestead be brought forward for sale on the application of any person who is not the licensed occupier of the run, the homestead must in every case consist of 320 acres, neither more nor less

18. A homestead must be a rectangle, unless the features of the country, or the course of any river or stream, render a deviation from the rectangular form necessary; and in every case two sides at least of the allotment forming the homestead, must be directed to the cardinal points of the compass.

19. A single homestead shall not comprehend both sides of a stream or water-course, such as, according to the practice of the department of the Surveyor-General, ought to form a boundary between opposite sections.

20. A homestead shall not have more than 880 yards of water frontage for 320 acres, and so in proportion for any greater quantity. The water frontage is, however, to be reckoned according to the distance from one extreme point to the other, and not according to the sinuosities of the water-course or river; and the Government reserves to itself the right of refusing to sell homesteads in any case where the sale of them may give an undue command over water required for the successful occupation of the surrounding or adjoining lands.

Valuation of improvements.

21. When any homestead is brought forward for sale, the improvements which may have been made on it shall be valued, and the amount of the valuation added to the upset price of the allotment or homestead.

In the valuation of improvements the following rules shall be observed :—

22. None but permanent and useful improvements shall be included.

23. The actual value of the improvements shall be taken into consideration, and not what the improvements may have cost.

24. In all cases in which the homestead is to carry with it the run, the improvements on the whole run shall be valued, as well as those on the homestead.

25. The valuation shall be made by three persons, one of whom shall be the licensed occupier of the run, or a person nominated by him; the second shall be the Commissioner of the district, or some person nominated by him; and the third shall be a person nominated by the Governor.

Sales by auction.

26. The auction will take place either in Sydney, or such place and at such time as may be directed by the Governor.

27. If the licensed occupier become the purchaser, the sum which he will have to pay to the Government will be the sum at which the allotment was knocked down, less the sum at which the improvements were valued. If any other person be the purchaser he will have to pay to the Government the sum at which the whole allotment, including improvements, may have been knocked down to him; and the Government will pay to the previous occupier the value of the improvements, as soon as he may have given to the purchaser full and quiet possession of what he may have purchased.

28. In all other respects the sale by auction will be conducted in the way in which sales of Crown lands are now ordinarily conducted, but the deposit to be paid at the fall of the hammer will be 25 per cent. on the whole purchase, including the value of the improvements, instead of 10 per cent., which is the amount of the deposit in ordinary cases.

29. The right of bringing forward for sale in the ordinary manner, any land now held under a depasturing license, will be retained by the Crown as fully as if these regulations had

* This is necessary, in order to prevent vexatious applications for homesteads—vexatious as well to the Government as to the actual occupier.—*G. G.*

4 Feb. 1846.

399.—2.

had not been issued, except in cases wherein a right of occupation for a term of years shall have been secured to the occupier by the purchase of a homestead; and it is to be understood that the sales of land, and especially in the neighbourhood of the towns of Melbourne, Geelong (Corio), Portland, Alberton, Eden, Brisbane, Ipswich, and of any towns formed or to be formed in any new county, will proceed as they might have done if these regulations had not been issued. The leases or licenses to be granted for terms of years under these regulations will confer no right beyond that of occupation for grazing purposes; and the Government will retain the right even during the continuance of such leases or licenses, to open roads, to erect bridges, or to establish ferries; also, to grant small portions of land for public purposes, such as the sites of churches, schools and parsonages; and at the expiration of any term of years for which a lease or license may have been granted, the claim of the occupier to any right or title to the occupation of any part of the land will absolutely cease and determine.

As a necessary caution it is further to be remarked, that the Government cannot positively bind itself to bring forward homesteads, or any lots of land, within any precise period of time. The want of surveyors, or any other deficiency in the survey department, or accidents which cannot now be foreseen, may render delays unavoidable; but it will be the desire, as it will be the interest of the Government to satisfy, with as little delay as possible, all the demands which may arise under these regulations. It is also clearly to be understood, that these regulations cannot interfere with or abridge the rights of the Crown in any greater degree than is clearly expressed herein, and the regulations are published, subject to the approval of Her Majesty.

Government House, Sydney. *G. G.*
4 February 1846.

—No. 2.—

(No. 36.)

Copy of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sidney,
12 February 1846.

No. 2.
Governor Sir George Gipps to Lord Stanley.
12th Feb. 1846.

My Lord,

I had the honour on the 4th ultimo to receive your Lordship's (No. 80) of the 6th August 1845, transmitting to me a copy of a letter, dated 31st May 1845, from Mr. Mark Boyd to your Lordship, wherein it is complained, that in a despatch, written by myself to your Lordship on the 17th May 1844, I had misrepresented the extent of grazing land held by Mr. Benjamin Boyd, beyond the boundaries of location in this colony, and the amount paid by him as license fees for the occupation of the same.

On the receipt of your Lordship's despatch, I called for returns of the quantity of land held by Mr. Boyd, in the month of May 1844, in the Port Phillip and Maneroo districts, the two districts mentioned in my despatch, as also for returns of the amount paid by Mr. Boyd for the year ending the 30th June 1844, in the shape of license fees for the occupation of land in the same district. Having received these returns, I now enclose copies of them; and I regret to find from these documents that the statements which I made in my despatch of the 17th May 1844, were not strictly correct. In order, however, to show the extent to which I did Mr. Benjamin Boyd injustice, I beg to place before your Lordship, in parallel columns, a copy of the paragraph complained of by Mr. Boyd, and a copy of the said paragraph as I would now beg leave to amend it.

20th Jan. 1846. Port Phillip 46/729).
No. 1.
20 Jan. 1846. Maneroo (46/844).
No. 2.

Paragraph in my despatch of the 17th May 1844, complained of by Mr. Boyd.	The same paragraph as it ought to be amended.
" It may throw some light on the subject, " if I state, that Mr. Benjamin Boyd, the " gentleman who signs the protest, as chair- " man of the association, is one of the largest " squatters in the country. He holds four- " teen stations (paying license for four only), " in the Maneroo district, and *seven* stations, " paying also license for *four*, in the district " of Port Phillip. The fourteen stations in " Maneroo are estimated to contain *231,000* " acres of land; the *seven* in Port Phillip, " *150,000* acres; the whole of the land being " well watered, and in the best parts of the " colony. Mr. Boyd is the gentleman who " asserted, at the Royal Hotel, on the 9th " April, that so long as he paid his 10*l.* " licenses	It may throw some light on the subject, if I state, that Mr. Benjamin Boyd, the gentleman who signs the protest, as chairman of the association, is one of the largest squatters in the country. He holds fourteen stations (paying license for four only) in the Maneroo district, and *four* stations paying license for *two* in the district of Port Phillip. The fourteen stations in Maneroo are estimated to contain *240,000* acres of land; the *four* in Port Phillip, *186,000* acres; the whole of the land being well watered, and in the best parts of the colony. Mr. Boyd is the gentleman who asserted, at the Royal Hotel, on the 9th April, that so long as he paid his 10*l.* licenses, he considered he had a freehold interest

"licenses, he considered he had a freehold "interest in the land which he occupied. "Had Mr. Boyd's several runs at Maneroo "and Port Phillip (amounting together to "*381,000* acres of land) been granted to him "without purchase in the time of General "Darling (the last Governor who had power "to make grants), they would have been "charged with quit-rents amounting to "*3,175 l.* per annum (2 *d.* per acre); whereas "Mr. Boyd pays for them in the shape of "rent to the Crown only *80 l.* per annum. "If, therefore, the present system of squat-"ting remain unaltered, it is evident that the "Government will have gained nothing by "the abolition of free grants.

interest in the land which he occupied. Had Mr. Boyd's several runs at Maneroo and Port Phillip (amounting together to *426,000* acres of land) been granted to him without purchase in the time of General Darling (the last Governor who had power to make grants), they would have been charged with quit-rents, amounting to *3,500 l.* per annum (2*d.* per acre); whereas Mr. Boyd pays for them in the shape of rent to the Crown only *60 l.* per annum. If, therefore, the present system of squatting remains unaltered, it is evident that the Government will have gained nothing by the abolition of free grants.

Your Lordship will observe, that the above paragraph speaks only of the land held by Mr. Boyd in the Port Phillip and Maneroo districts. I now find that he, or his partner Mr. Robinson, held at the same time land in six other districts, namely,

Wellington,	Bligh,
Murrumbidgee,	Darling Downs,
Lachlan,	New England,

and that he or they paid in all for licenses, in the year ending the 30th June 1844, the sum of 140 *l.* The reason why they paid for so many licenses was correctly stated in my despatch, namely, that he or they had obtained the runs by purchase from other parties: for it was a rule established, even before 1844, that a license fee should never be lost to the Crown by the transfer of a license. It also appears, by the Maneroo return, that for some of the runs held in 1844 by Mr. Boyd, license fees were paid by other parties, that is to say, the license fees were paid before Mr. Boyd bought the runs. These payments may therefore be considered as virtually made by Mr. Boyd; and I find that in the next year, or the year commencing on the 1st July 1844, Mr. Boyd paid for nine licenses in the district of Maneroo alone. The fees on these licenses, at 10 *l.* each, amounted of course to 90 *l.*; and I further find, that for the current year, or the year commencing on the 1st July 1845, his payments for licenses in the same district have been so increased as to amount to 152 *l.* 10 *s.*; but this latter increase is, I believe, to be attributed to the regulations of the 10th July last, by which the price of a license is made in some degree proportional to the quantity of stock depastured under it. The regulations alluded to were transmitted to your Lordship with my despatch of the 2d August last, (No. 121).

For Sir George Gipps' Despatch, 2 August 1845, No. 121, *vide* Papers ordered by the House of Commons to be printed, 17 June 1846, No. 399, page 3.

These statements relate to the Maneroo district alone; but passing to the consideration of the whole colony, I find that in the 16 squatting districts Mr. Boyd, or Messrs. Boyd & Robinson, paid for licenses in the year commencing—

	£.	*s.*	*d.*
1st July 1843 - - -	140	–	–
,, 1844 - - -	285	–	–
,, 1845 - - -	619	10	–

For assessment which is directly proportional to the quantity of stock kept on Crown lands, he or they paid in the year commencing—

	£.	*s.*	*d.*
1st July 1843 - - -	387	–	1
,, 1844 - - -	691	6	11

and for the first half of the current year he has paid 423 *l.* 16 *s.* 10 *d.*, being at the rate per annum of 847 *l.* 13 *s.* 8 *d.*

The half-yearly assessment under the 16th clause of the local Act, 2 Vict. (No. 27), being

	d.
For each sheep - - -	–½
Ditto ox, bull or cow - -	1½
Ditto horse - - - -	3

The assessment paid by Mr. Boyd in the first half of the present year (423 *l.* 16 *s.* 10 *d.*) is equal to what would be payable on 303,484 sheep, or on 101,161 oxen, or on 50,580 horses.

I have not the documents before me which will enable me to show the exact quantity of each kind of stock held by Mr. Boyd; but he is known to possess large quantities of horses and cattle, as well as sheep.

I have, &c.
(signed) *Geo. Gipps.*

Enclosures in No. 2.

(46/67.)

(No. 1.)

Superintendent's Office, Melbourne,
20 January 1846.

Sir,

Encl. in No. 2.

Referring to your communication of the 9th January, No. 46/12, I have herewith to enclose to you a return, as desired, of the number of stations, and the estimated extent of each, which were held by Mr. Benjamin Boyd, either in his own name, or in the names of other persons, in the month of April 1844, in the Port Phillip District; and also the amount of license fees paid by him, or on his account.

I have, &c.
(signed) *C. J. Latrobe.*

The Honourable the Colonial Secretary,
Sydney.

Return of Stations in the *Port Phillip* District held by Mr. *Boyd* in April 1844.

DISTRICT.	NAME.	Estimated Extent.	Stock returned.			Amount of Half-yearly Assessment.	Number of Licenses.	REMARKS.
			Horses.	Cattle.	Sheep.			
						£. s. d.		
Murray - -	Strathmerton -	* 150 sq. miles	8	36	13,050	27 10 3		
Portland Bay -	Sid Court, Wimmera.	40,000 acres -	5	19	7,158	15 1 6	One license	These three stations, held under one license, taken out in Mr. Boyd's name.
Ditto - -	Ondeit-Colac -	20,000 acres -	7	14	6,200	13 1 10		
Ditto - -	Enmeralla -	30,000 acres -	8	1,260	- -	7 18 6	ditto -	The station held under license taken out in the name of Robinson & Boyd.

* The Crown Commissioner of the Murray District states, that Mr. Boyd claims 17 miles of river frontage, and a fair distance, say 9 miles, back; 153 square miles.

Superintendent's Office, Melbourne,
20 January 1846.

(No. 2.)

Commissioner of Crown Lands' Office, Maneroo,
20 January 1846.

Sir,

In attention to your letter of the 9th instant, requesting to be furnished with an account of the station held by Mr. Benjamin Boyd in the month of April 1844, to enable his Excellency the Governor to answer certain queries contained in Lord Stanley's despatch, No. 80, of the 6th of August 1845, I do myself the honour herewith to transmit a return, embracing the particulars required.

I have, &c.,
(signed) *John Lambie*, C. C. L.

The Honourable the Colonial Secretary,
Sydney.

PARTICULARS of the STATIONS in the District of *Maneroo* occupied by Mr. *Benjamin Boyd* in the Month of April 1844.

No.	NAME of STATION.	Length and Breadth, estimated in Miles.	Number of Licenses taken out, and in whose Name issued.	REMARKS.
1	Mapa - -	7 × 4	1 Benjamin Boyd.	
2	Cuaja - -	8 × 7	1 - ditto.	
3	Inchbrya - -	9 × 9	1 - ditto.	
4	Mayallin Downs	4 × 4	1 - ditto.	This station, and a detached cattle run, were held under one license, Mr. Cooper retaining possession of the latter.
5	Genong - -	6 × 3	Francis Cooper - -	
6	Cambelong -	4 × 4	1 Sparks and Gerard -	These three stations were held under one license.
7	Queenburgh -	7 × 0½	- ditto - - -	
8	Snowy River -	4 × 3½	- ditto - - -	
9	Wag Wag -	9 × 4	1 Joseph S. Willis.	
10	Bocco Rock -	9 × 4	1 - ditto.	
11	Bibenlake - -	6 × 3	Trustees of J. J. Moore -	These four stations, and a detached sheep run, were held one license, the trustees retaining possession of the latter.
12	Boggy Creek -	7 × 2	- ditto - - -	
13	Bendock - -	6 × 4	- ditto - - -	
14	Kerkinong -	5 × 3	- ditto - - -	

Note.—The stations 1 to 4 inclusive were the only ones Mr. Boyd was in possession of on the 1st of July 1843, but previously to April 1844 the others had been transferred to him, and he was then occupying them under the licenses taken out by the parties whom he had succeeded.

—No. 3.—

(No. 46.)

No. 3.
Governor Sir George Gipps to Lord Stanley 23d Feb. 1846.

COPY of a DESPATCH from Governor Sir *George Gipps* to Lord *Stanley*.

Government House, Sydney,
23 February 1846.

My Lord,

THE enclosed paper contains a copy of a letter written by the Bishop of Australia to a private friend in England, on the subject of the regulations of the 2d April 1844, which have excited so much interest in the colony, and led to so much discussion here and elsewhere. 17 Feb. 1846. No. 1.

It was placed in my hands by the Lord Bishop on Saturday last, with a general permission to make any use of it I might think proper; and in a note from the Bishop, of which I enclose a copy, I subsequently received express permission to forward it to your Lordship. 21st Feb. 1846. No. 2.

I have taken the liberty of marking a passage in it (p. 11), with a view of attracting to it your Lordship's attention, as this passage explains more fully, perhaps, than I have ever done, the grounds on which *the sale of homesteads was proposed* in the regulations of April 1844.

I need scarcely add, that I concur fully in all the sentiments expressed in the letter.

I have, &c.

(signed) *Geo. Gipps.*

Enclosures in No. 3.

(No. 1.)

Sydney, 17 February 1846.

My dear ——

YOU have read, I dare say, in common with the English public in general, an article in the Times of the 3d November, commenting upon the regulations proposed by Sir George Gipps in April 1844, for the management of the districts byond the boundaries (commonly called Encl. in No. 3.

called the squatting districts) in this colony. The question is evidently taken up in a party spirit; and the *animus* of the entire article is such as makes me suspect, that if it were not actually manufactured here, the materials of it must at least have been exported from this country. No person of common discernment will believe that these are the natural expressions of one who had merely read the *New South Wales Gazette*, in which the despatches, &c. relating to this question were published. These are the words of one who had a preconceived opinion, or upon whom influence had been employed to give him a desired bias. As my name is drawn from its obscurity in connexion with the share which, as a member of the Executive Council, I have borne in supporting the proposed regulations of the Governor, I am rather anxious to place in your hands a true account of the whole matter, which you will be at liberty, as it may seem good to you, to show to any who take an interest in me and my proceedings. The Times may be more likely to mislead the public, because it cannot possibly have information sufficiently copious and impartial to enable it to form a considerate determination upon a question of such a peculiar nature, and the just decision of which depends so much on local circumstances. Whether I have been a good shepherd or a bad one, it must also be beyond the capacity of the Times newspaper to determine. But the evident intention is to cast blame upon me for having been at all concerned in such discussions; and still more perhaps for having taken a view which is not approved by parties for whom the Times is the advocate. In opposition to this I may begin by stating to you, that from my first arrival here in 1829, until the date of the regulations now under examination, there has been no one subject, excepting such as directly and properly appertain to my office, on which I have bestowed so much care and attention, as upon the mode of disposing of the vacant Crown Lands, with a view of introducing a useful population into the country. I perfectly admit, as a general maxim, the propriety of a bishop abstaining from any discussion on questions merely political, or connected only with the worldly interests of men. But if the meaning be, that a bishop is to take no part in advising upon the means by which a country now destitute of inhabitants may be best supplied with them, and how the benign influence of the Church of England may be made to expand through vast deserts which it has not as yet even reached the boundaries of, I must express my dissent from such a sentiment. The bishop, I think, is solemnly bound, and perhaps he is bound even beyond other men, to concern himself in questions which, although they may be termed political, have the closest connexion with the moral and religious character of the generation which now is, and of those which are to come. A bishop placed as I am here, would be chargeable with forgetfulness of his duty both to God and man, if he should hesitate to employ his utmost ability, and the whole weight of influence derived from his connexion with the executive Government, in giving an advantageous direction to the measures of that Government for the disposal of lands vested in the Crown for the benefit of the nation at large. It is enough if he, while acting thus, can show that he occupies some portion of his time and thoughts upon such subjects, without any view, immediate or remote, to the temporal advantage of himself, or of any connected with him. In my own case (I speak boldly) there never has been, nor could there be, room for a shadow of suspicion of that kind.

And now I will explain to you the motives which led me to concern myself so much with these regulations, which certainly have encountered great opposition; but in telling you this I ought to put you in possession of the fact, that in this country they have been opposed by few, if any, who had not a direct personal interest in frustrating them. It is now several years since the intercourse which, in the discharge of my duties, I am compelled personally to keep up with all parts of the colony, pointed out to my observation many growing dangers arising from the system upon which the Crown lands beyond the boundaries were occupied. Those lands were held from year to year under licenses, for each of which a fee of 10 *l.* was paid annually to Government. The quantities of land in the occupation of different individuals, each making the same yearly payment for a license, were more disproportionate than can easily be conceived. In many cases more than one station (indeed, I may say more than three, four or even five stations) were held under one license. The extent of a run was often enormous, almost beyond calculation, according to English modes of reckoning. Nothing, indeed, could surpass the irregularities of the entire system. It was also evident that under such a system the whole of the lands were silently passing out of the hands of Government, inasmuch as if that tacit connivance were much longer persevered in, the present occupiers would, through sufference and usage, acquire a title, against which no other claim could effectually be pleaded. Considering, then, the vast irregularities which existed in the rate of occupation, and remembering that these lands were *the rightful patrimony of all the people of the United Kingdom*, I could not think it reconcileable with the rules either of justice or of sound policy, that they should be suffered thus to slip away from the proper owners, and be made the private property of the few hundreds of persons who were in the present occupation of them. But that which principally affected my mind was the condition of society which was likely, or rather was certain to grow up under the circumstances then existing. There prevailed a growing feeling of ownership arising from mere occupancy, which impelled every licensed holder to cling to the spot as to a property which was one day to become his own; yet, until a lapse of years should have given the impression of certainty to this view, there was just that degree of doubt as to the permanency of the tenure, which reasonably enough took away the inclination to incur the expense for the sake of improvement or comfort. The impression produced on my mind was, that the Crown, whilst it thus negligently sacrificed the right of the people of England to so many millions of acres, could not be acquitted of actually *encouraging* the growth of a debased, barbarous and irreligious mode of life among those from whom it thus withheld the ordinary inducement which the possession of even the smallest

smallest of freeholds holds out to a man to surround himself with social comforts. Hundreds of times I have been answered, "How can we do any thing towards decency and improvement when there is not a foot of land that we can call our own; and we have no security but that as soon as we have laid out our money upon it we shall be ejected?" and the force of the argument must be acknowledged. After some years of observation and reflection, the conclusion which I came to was, that the only course of proceeding by which the rights of the Crown could be maintained, while every reasonable inducement to improve his social and religious circumstances would be offered to the occupier, was that of enabling him to acquire by purchase the right of property in a select and limited portion of his station, on which his buildings might be erected and improvements made, and securing to every such purchaser, on the faith of Government, the right of occupation over the whole run during a number of years to be determined on. If at the expiration of that term he should make his election to purchase such another portion, possession of whole run, or station (as such tracts of country have been called) should again be secured for a period of years, and so on, until time and change of circumstances might render the introduction of a different system desirable. In the event of any other than the actual occupier purchasing the stipulated portion of land (which, according to Act of Parliament, must be disposed of at auction), then such highest bidder would be entitled to enter into occupation of the station; but only on condition of paying to the previous or out-going occupier the appraised value of his land, or of any improvements upon it, or on any other parts of the station. It was naturally to be expected that the parties who were occupying at a very low rent immense and highly valuable tracts, which, by mere lapse of time, were in a state of rapid transition into private properties of their own, might be dissatisfied with the proposal. Nevertheless, for their own sakes, for the sake of the families of such as were resident, and for the sake of the dependents of the many non-residents, who carried on their establishments by means of stewards and overseers, it was beyond all question that things should not be left as they were. The voice of religion and morals loudly required that thus it should not be; and having given full weight to all these considerations, I proposed in my place in the late Legislative Council, during the session of 1842, a plan according to the outlines here traced. I thought, and still think, that it was the best which circumstances admitted for doing justice to all; to the actual occupiers of Crown lands, to the people of the United Kingdom, whose patrimony they were, and to the claims of Christian religion, interceding as it were to be delivered from that threatened abolition to which the system in operation was almost certain within less than half a century to consign it. To this evil I had drawn attention in my charge to the clergy in 1834 (pp. 12, 13), and had implored the settlers belonging to the Church of England, to pay attention at least to the observance of family devotion, where they were excluded from opportunity to partake in the public devotions of the church. But this exhortation was too generally disregarded; and the consequence was, that the prevalence of irreligion, which was sufficiently fearful in 1834, when confined within the limits of location, had become too frightful for contemplation when the stations had extended over the almost incalculable space which they now occupy. I am sure, indeed it cannot be contradicted, that beyond the boundaries the outward observance of any religion might be considered as pretty generally extinct.

Perhaps, then, I may have said quite enough to convince you that some interposition was called for, were it only to rescue the Government from the imputation of permitting and encouraging such a state of things to exist in a territory from which it was deriving a large annual revenue. But you may require a few words more to show you, that the measure proposed by Sir George Gipps, (and which, being in accordance with my own views, I felt bound to support), was not fairly open to those *violent objections with which it has been received.*

In the first place a qualified system of purchase, conferring a title to the temporary use and occupation of the remainder of the station, had this advantage; it set a note of *distinction** upon the two parts of which the holding would consist,—the one *purchased*, and by grant from the Crown rendered private property, the other *not purchased*, but continuing the property of the Crown, for the use and benefit of the whole people of England. Without such a note of distinction no doubt any occupier of ancient standing, and in the course of time all such occupiers might set up a claim of ownership, casting off all acknowledgment of the superior right of the Crown. But it would be impossible for such a constructive title to grow up, while the assertion of it could be at every moment checked by an adjacent and tangible proof that the right of ownership was limited to a definite spot acquired by the condition of purchase. A similar right would be thereby negatived to all that portion for which *no* right of purchase could be pleaded.

It is assumed, I observe, in the "Times," that the Government ought to have interfered with some words of warning to prevent the idea of property from being recognized in those rights of run, which had come to bear a determinate value between sellers and buyers. So far as relates to myself you will observe that this objection is of no force, inasmuch as in 1842 I proposed a plan for vindicating the claims of the Crown, that is, of the English nation, to all those lands. But even as regards the Government, there was no want of due warning that those lands were let upon sufferance alone, and that whatever was done upon them was done at the risk of the doers. The interference of the Crown Commissioners with the

* It was principally for the purpose of making the distinction here pointed out that I proposed the sale of homesteads.—*G. G.*

the extent and boundaries of the several holdings (which was complained of as a grievance), was in itself a sufficient warning that the Crown had not surrendered the right of ownership. It had, indeed, been exercised * at no distant date by the Governor directing the expulsion of a squatter from the station which he held under a license. In fact the marketable value of the right of occupation had arisen not from any want of notice that the right of ownership was in the Crown, but from a latent hope that it never would be seriously enforced, or that if the attempt were made, it might be defeated by a combination of the actual occupiers, or from that disposition to speculate on contingencies which in the matter of land purchases very nearly approaches in many cases to the mania of staking money upon a cast of the dice.

* In the case of Mr. Lee, of Bathurst.—*G. G.*

It may be thought that a system of leases open to competition, or to purchase by the highest bidder, would afford a simpler and readier method of accomplishing the desired object. But this I very much doubt. In the first place, a mere leaseholder being able to calculate the exact period at which he must give up the whole of the lands in his possession, unless his interest therein should be renewed by a fresh lease, the attainment of which, being subject to the competition of others, he must know would be uncertain, would be even less likely to go to expense in establishing himself in comfort than the holders under license were. They had before them a period which was at least indefinite in duration; or had no such fore-appointed termination as a lease must needs involve. In the next place, a system of leases, open to competition, would be in no degree whatever more likely to satisfy the present occupiers than the regulations of Sir George Gipps have had that effect. The open and undissembled objection is to *any* termination of the tenure; and to *any* admission of competitors; the purpose being that they who have now possession of the land should be secured therein in perpetuity. Every suggestion which I have seen, designed as a substitute for the regulations of Sir George Gipps, involves in some shape or other this condition, that the squatting stations shall be secured in fee-simple to the present holders. No one denies that such occupiers are entitled to every degree of consideration and indulgence which can be granted to them without sacrificing the general good to their individual advantage, or the advantage of a class; and I am able to testify that from first to last the anxious attention of this Government, and of every member of it, has been directed to find means of giving the squatters every advantage not inconsistent with the general good. It is a great question, involving great interests; and justice cannot be done unless it be treated upon very comprehensive principles. It really amounts to this: can the expectations of the body of squatters be gratified, and their pretensions yielded to, without injustice to the nation at large? This is the true point in controversy. I must say, I stand up for the rights and privileges of the whole people of England; and object most strenuously to the transfer of what is their lawful inheritance into the perpetual custody of a close corporation of 1,000 or 1,500 persons, who have been allowed a temporary occupation of the property, and are now proposing terms which would establish it theirs for ever; a system of leases would end in that. How is the Government, year after year, to enforce compliance with the terms of the lease, that is, payment of the rent? It would be impossible to arm the Government with the power of summarily ejecting parties holding under a lease; and if the expulsion of defaulters is to be accomplished only by regular process of law, the Government, as all experience has shown, cannot successfully persist in maintaining so many actions, but is liable, is even certain to be defeated by an understanding among its tenants. The old system of granting lands upon condition of a fixed quit-rent, was abandoned from a sense of the abuses to which it was liable; and the Government (though armed with full power to distrain, and even, I believe, to resume the land in default of payment) has not been able to proceed with a collection of quit-rents. It stands to reason that it would have to encounter the same difficulty in recovering the rents under a system of leases,—nay, might even be more certainly defeated. This was, one great advantage of the proposal to make the tenure of a station for a certain term depend upon the previous *purchase* of some portion of it; because then the rent (for such, in fact, it might be considered) would be paid in advance. But if, instead of this, an annual payment have to be demanded, and it be found (as uniform experience has shown) that it cannot be recovered when there exists a general purpose not to pay, there will be little or no inducement for the Government to look after the resumption of the land, attended as it must be with much trouble, and no profit. Thus the tenants on leases will ere long be converted into tenants in fee-simple; or the whole of these enormous reserves will become their private property. But can any government have a right thus to sacrifice and make away with the patrimony of the people? It was at the cost of the English nation that this territory was discovered, and this colony established; it is only through the guardianship of England, and the influence of its name and power, that we are able to breathe in security from foreign hostility here, or to pursue our way across the waters to any other country. Here is a vast field upon which the labour and capital of England ought to be exercised and employed, and it should be fairly left open to them. But who will be willing to transfer either his labour or his capital to a country, every acre of which that is worth holding, is known to be locked up from the new comer, under a lease to some prior occupant; and how much less can a transfer be looked for, if the whole property in the soil of the country be surrendered into the hands of what I cannot help looking upon as a close corporation, consisting of a few hundred individuals? It would be a wrong done to the people of England collectively, and a fatal injury inflicted upon all the people of this colony. Such a system would put an entire stop to immigration, and would thereby prove ruinous at no distant date, even to those who had acquired that monopoly of the land; for without a very extended and continued introduction of fresh labour, what will the lands of this colony be worth? I will tell you; they will be worth nothing to any man. In fact, such a system as should make away with the

the Crown *property*, would not be tardy in reducing the Crown itself to a mere nominal sovereignty over its dominions here. Considering the numbers, station and influence of those who compose the squatting interest, and that they have already a predominant influence in the Legislative Council, do you not clearly perceive that the effect of such measures as we have been considering must be to throw the whole power of the country into the hands of those few persons in whom the bulk of real property will be vested. And what will this be but to create a democratic oligarchy, which will not long be denied the control and disposal of what are now the revenues of the Crown, in trust for the whole people of the United Kingdom? What can the Crown oppose to such a power? And what can the people do, when they require land, and find that the whole is monopolized by a few, so that the many cannot obtain a single acre without coming to them, and agreeing to take it upon their own terms? It may be very possible to set in motion the vast machinery of the "Times" to mislead the public upon this question; but if I had access to the hearing of the people, I should recommend them to look carefully after the interest which they one and all have in this great territory. Indeed, I must say, that our Governor and his Executive Counsellors would have deserved impeachment under an act of attainder, if they could have consented so to tamper with those rights, which are the rights of the Crown only, because the Crown is in trust for the good of the people.

I hope you still continue to be staunch Tory enough to approve this principle: for my part, I still keep to the old persuasion, in the midst of all the changes which have taken place; but when we used to talk the matter over so many years ago, I did not expect I should come to this remote quarter of the world to find a confirmation of our favourite notion, that the rights and liberties of the people are best maintained by giving due support to the prerogative of the Crown.

Believe me, &c.

(signed) *W. G. Australia.*

(No. 2.)

My dear Sir George, Darlinghurst, 21 February 1846.

I ASSURE you, that if you do my paper the honour to think it will do any good, it is quite at your service to make any use that you may deem best, either in sending it to Lord Stanley, or any one else. It is a mere private communication, but written certainly with the design that it should be circulated among my friends, lest they should be persuaded by the "Times" that we had been committing treason, while they all believed we were going on quite correctly. I shall be glad if you can secure its being considered in this light, as I have no particular wish to see it in print; but in any way I shall be glad if it can do good.

Believe me, &c.

His Excellency Sir George Gipps, &c. &c. &c.

(signed) *W. G. Australia.*

NEW SOUTH WALES.

(OCCUPATION OF CROWN LANDS.)

FURTHER CORRESPONDENCE relative to CROWN LANDS in *New South Wales*.—(In continuation of the Papers already laid before The House.)

PART VI.—2.

LICENSED OCCUPATION OF CROWN LANDS.

Ordered, by The House of Commons, *to be Printed*, 17 *June* 1846.

399.—2.

Under 2 oz.

NEW SOUTH WALES.

ORDER IN COUNCIL, dated 9th March 1847, for establishing REGULATIONS relative to the OCCUPATION of WASTE LANDS in *New South Wales*, under the Powers for that purpose contained in an Act passed in the 9th and 10th Year of Her Majesty's reign, c. 104.

B. HAWES.

(*Presented pursuant to Act 9 & 10 Vict. c. 104.*)

Ordered, by The House of Commons, *to be Printed*, 31 *March* 1847.

— No. 1. —

(No. 68.)

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy*.

Sir, Downing-street, 29 November 1846.

UPON entering on my present office, one of the first questions which appeared to me to require an endeavour to settle it on some satisfactory footing, was that as to the terms on which the inhabitants of New South Wales should be enabled to obtain land, either by purchase or by authorized occupation for pastoral purposes.

The conditions upon which the occupation of land without purchase should be permitted, and the rights which should be conceded to the occupiers, have for some years been the subject of much discussion; and I am well aware that, from the peculiar circumstances of the colony, this is the part of the general question as to the management of the Crown Lands which is of the most immediate practical importance. But as the rules to be enforced as to the temporary occupation of land are of necessity closely connected with those respecting its permanent alienation, and as I also observe many signs that the policy which has been adopted by Parliament, of prohibiting the sale of land below its present price, is still viewed with disapprobation by many of the colonists, I am anxious to recall to your recollection some of the grounds upon which that policy was originally adopted, and upon which I must still think that it ought to be strictly adhered to

When public inconveniences have been removed by suitable measures, they are apt to be forgotten, and the value of the remedial measures by which this ha been effected to be brought into question, in consequence of any partial inconvenience with which they may be attended. If the evils which necessarily arise from too liberal a distribution of waste lands should have been thus lost sight of in New South Wales, I would refer you, for a full exposition of their nature, to the despatches of the Earl of Ripon, which are referred to in the margin, and of which, though they may be found in the Parliamentary Papers of the day, I think it may be of advantage that I should enclose you copies.

23 January 1831.
14 February 1831.
Vide Papers ordered by The House of Commons to be Printed, 13 October 1831, No. 328.

You will find it to be shown in these despatches, that if in the settlement of colonies the waste lands are disposed of by grant instead of by sale, their allotment to individuals must of necessity be left to the discretion of the Executive Government, with great risk of abuse, and the certainty that, whether justly or not, abuse will at all events be suspected and complained of; that the Government must either suffer all desirable land to be appropriated long before it can be so with advantage to the public, or else establish regulations hardly possible to be enforced, and which, at the same time, greatly interfere with that free management of their own property by individuals which is so essential for its improvement; and that, on the other hand, by adopting the principle of selling land at somewhat a high price, all possibility of favouritism or abuse on the part of the Government is effectually put an end to, the most complete security is afforded that land will be appropriated only by those who really intend to make use of it, and that none who have the will and the means of improving it shall be prevented from obtaining it. By this system of management, a check is also opposed to that tendency to an undue dispersion of the inhabitants which is found to be so strong in countries in the progress of settlement, and where the population is still very small in proportion to the extent of the territory. Under such

circumstances, if left to themselves, men are generally disposed all to become occupiers of land upon their own account; the consequence is, they become dispersed in single families over a large extent of country, deprived in a great measure of the advantages of mutual assistance and co-operation, and of the division of labour. Such a state of society is necessarily rude and little favourable to improvement. The education of the young, and the religious instruction of all, can only be provided very imperfectly and at a vast expense for a population so scattered; there is little or no labour to be obtained for hire, so that even those who may possess capital cannot apply it with advantage in improving the land; and thus, though all may enjoy an abundance of food, they will be scantily supplied with the comforts and luxuries of life, and be strangers to all the chief advantages of civilization. The system of disposing of land only by sale, at rather a high price, now established under the authority of Parliament in Australia, checks the tendency of society to fall into this condition, not only by restraining the undue facility of obtaining land, but also by creating a large fund, which may be applied to the increase of the population by emigration, and to the improvement of the territory which they are to occupy. When the benefits which New South Wales has derived from the employment in this manner of the money received from the sale of land are remembered, there can, I think, be little doubt of the advantages of this policy, especially if we contrast with its practical results those of acting upon the opposite policy, which is founded upon the opinion (still maintained by some) that it is better to leave as much of their funds as possible in the hands of settlers, instead of requiring from them a price for land. This last is the principle on which the settlement of Swan River began so unsuccessfully, under which New South Wales itself so long made a tardy and imperfect progress, and the British colonies in America suffered from so many abuses. The opposite system, as I see truly remarked in some of the discussions on the present subject, is the one under which New South Wales has in 10 or 12 years realized from land one million sterling, has increased its population by 50,000 souls, and has passed from the condition of a penal settlement into that of a great free colony. It has, I know, been often alleged, that many of those by whose purchase of land so large a sum of money has been brought into the public treasury and applied to emigration, have been heavy losers, and that however the colony may have gained in population and in wealth, much suffering and disappointment has been entailed upon individuals by their buying land at a price far exceeding its real value. That there have been heavy losses and much disappointment to individuals in consequence of the over-speculation in land, which a few years ago was carried to so great a height in the colony of New South Wales, it is impossible to deny; but I must observe, that such losses from injudicious speculation are by no means confined to colonies in which the policy of disposing of land by sale is acted upon. I doubt whether any British colony, has in proportion to its wealth and population, suffered so heavy a loss of capital from its mis-employment upon land as Western Australia; and in this instance the loss to individuals has in no degree been compensated by any advantage to the community; whereas in New South Wales, though the losses of those who bought land injudiciously (so far as their own interests are concerned) are no doubt greatly to be lamented; still, against this evil there is to be set the great and permanent benefit to the community which has arisen from the expenditure of the money paid for land, in bringing into the colony a large free population. Again, when it is complained that the price demanded for land in New South Wales has been more than it is really worth, I must direct your attention to the fact, that land has in itself, and considered without reference to population, no value which is capable of being estimated. In this country, land by nature almost entirely unproductive; sterile moors, for instance, and swamps, which, until improved by a large employment of labour and capital, can yield little or nothing, sell for prices far higher than those which under the existing regulations are obtained for the best lands sold in New South Wales for the purpose of cultivation; while in many parts of the world, lands, by nature of the very highest fertility, are at this moment worth absolutely nothing. Hence it is clear, that the value of land depends far less upon its intrinsic qualities than upon its being so situated as to be useful to a considerable and industrious population. The fact, therefore, that those who have bought land in New South Wales at prices which, however high they may be there thought, are so very far below those which are habitually paid in more fully peopled countries, find these lands too dear with the present amount of population, and in the absence of a better supply of labour would almost seem to lead to the inference, that instead of

the present upset price of land being too high, it might have been really better for the purchasers to have paid a still higher price, so that a greater number of emigrants of the labouring class might have been introduced.

Such are some of the reasons (to which it would not be difficult to add many more of hardly inferior weight) which lead me to the conclusion, that the policy sanctioned by Parliament, with reference to the alienation of the public lands in Australia, is one to which, for the welfare of these colonies, it is most important to adhere; but while I entertain this opinion, I am also perfectly well aware, that in order to encourage the great staple produce of New South Wales, it is necessary that the occupation of lands for pastoral purposes should be allowed on terms much easier than those of purchase at the minimum price now established by law. There is a universal concurrence of opinion as to its being indispensable that the sheep and cattle farmers of Australia should have the range over far wider tracts of land than they could possibly afford to purchase, not merely at the present price, but at any which could possibly be named for the fee-simple. I assume, therefore, that it is necessary to provide for the temporary occupation of land for pasturage on much easier terms than those upon which its permanent alienation is permitted. Nor is this in any degree inconsistent with what I have aleady said as to the importance of maintaining the present minimum price of land sold in fee-simple; on the contrary, I entirely agree in the opinion I find to have been expressed by Sir G. Gipps, that the two systems of permanently alienating land only at a high minimum price, and that of permitting it to be occupied for pasturage (or what is termed the "squatting system"), will mutually sustain and support each other. By the combined operation of allowing a temporary right of occupying land to be obtained on easy terms, and of demanding a considerable price for that in which a permanent property is acquired, the sheep and cattle farmers are enabled to carry on the important branches of industry in which they are engaged to an extent and with advantages which they would not otherwise enjoy; while at the same time this does not occasion the loss to the colony of the important source of revenue which will hereafter be afforded by the sale of land, or any risk of depriving future settlers of the means of obtaining land by purchase at a reasonable price. This last consideration is, I think, of extreme importance; it is obvious that if those who now occupy the large runs which are required for the support of considerable flocks and herds, while the country remains in a state of nature, were allowed to acquire a permanent property in these vast tracts of land, there would very soon indeed be no land of moderately easy access available for new settlers. I am aware, indeed, that even under the existing regulations complaints have been made, and not without much apparent foundation, that a difficulty is experienced by persons who have accumulated small capitals in finding the means of purchasing allotments of land of a size suited to their circumstances, owing to the manner in which extensive tracts have been appropriated by the larger capitalists. In justice, therefore, to the poorer class of settlers, I consider it of vital importance, that in allowing wild lands to be occupied for pasturage, the property of the Crown in these lands should be effectually protected, so that as they are wanted for settlement, they may be sold at a price which, while it is too high to admit of large tracts being obtained possession of by grasping speculators, is yet sufficiently moderate to throw no difficulty in the way of the industrious settler who desires to purchase and to improve a farm of moderate extent.

But while I for these reasons consider it to be necessary that those who occupy wild lands for pasturage should not be permitted to acquire a permanent property in their runs until they can afford to purchase them at the price now established by law, I am by no means insensible to the force of the arguments which have been urged against the existing practice of allowing the occupation of these runs to be secured only for a single year at a time, by which the holders are discouraged from attempting improvements of which they have no assurance of reaping the benefit. I admit that both the interest of the public and of the individual occupiers of wild lands would be promoted by permitting such lands, when not wanted for settlement, to be held for longer periods than has hitherto been the practice, and by securing to the occupiers, at the end of their tenancy, the value of any improvements they may have effected. In this manner, I believe, various improvements, and particularly those having for their object to secure a larger and more permanent supply of water, will be encouraged, by which a given extent of land will be rendered capable of supporting a very much larger amount of stock than it now does, thereby checking, at least in some degree, the

present tendency of those engaged in pastoral pursuits, to scatter themselves over an enormous extent of country. It is upon these views that the Act passed in the last Session of Parliament, of which a copy is enclosed in this despatch, is founded; that Act, as you will perceive, proceeds upon the principle of at once effectually asserting the property of the Crown to the vast tracts of land now occupied by the stockholders of Australia, and at the same time enabling Her Majesty to make regulations, having the force of law, by which the holders of wild lands will be rendered secure in their occupation for terms of not more than 14 years, and will, at the end of their tenure, be assured the value of any improvements which they may have effected. I have not, as yet, been enabled to advise Her Majesty, under the authority of this Act, finally to establish, by Order in Council, the rules under which such lands are in future to be held. I have been compelled to postpone doing so by the necessity of obtaining much information, and communicating with various persons before I could venture to propose for adoption regulations which must so deeply affect the future prospects of Australia. But though I cannot as yet transmit to you regulations confirmed by Her Majesty in Council, I think it right to forward to you a printed copy of the draft which has been prepared, of the regulations which it is in contemplation to establish. You will, however, understand that these regulations have by no means been as yet finally determined upon; they are to be regarded, as they purport to be, merely as a draft for further consideration, liable to be altered, in consequence of the further information I may receive. With the view of obtaining such information, they have already been communicated to some of the stockholders of New South Wales, at present residing in this country, and will also be communicated, upon his arrival, to Sir G. Gipps, whose advice upon this subject I consider it to be so important to obtain, that I shall certainly defer submitting these regulations to Her Majesty until I can have that advantage.

Act 9 & 10 Vict. c. 104.

In order, however, to obviate all unnecessary delay in bringing these regulations into operation, in case they should hereafter be sanctioned by Her Majesty, it is desirable that you should at once consider in what manner it will be best to proceed in performing the duty it is in contemplation to impose upon you, of classifying the lands of the colony, and defining the boundaries of the different districts which will require to be determined; there is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts which it is intended to establish, and the nature of this difference is such as would make it necessary that you should act with extreme caution in classing the lands of the colony in one or the other of these districts. Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement for the long period of 14 years; it would, therefore, be absolutely necessary that no lands should be so classed except those which from the remoteness of their situation you have reason to feel assured will not be required for sale to the public, for the purpose of permanent occupation during the term for which the leases will be granted. I have to instruct you to be most careful upon this point, since it would be a source of very serious injury, both to the colony and to the mother country, if at the end of eight or ten years it should be found that the progress of emigration were checked by the inability of the Crown to find lands to sell to intending emigrants. You will recollect, also, that as the proposed regulations with regard to intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the value of his improvements, there would be the less occasion for placing in the class of unsettled districts any lands as to which even a doubt can be entertained.

I am, &c.
(signed) *Grey.*

Enclosure in No. 1.

Proposed Rules on the Occupation of Crown Lands in *New South Wales.*

Cap. I.

Classification of Lands.

Districts to be proclaimed by the Governor.

Sect. 1.—The lands in the colony of New South Wales shall, for the purposes of the present Order, be dealt with in three classes, accordingly as they may be situated in districts to be denominated respectively as the Unsettled, Intermediate and Settled Districts, and

and the Governor is hereby authorized and required to establish in the colony, or in the different parts of the colony, so many districts of each kind as he may judge necessary for the purpose of duly distinguishing lands which ought to come respectively under one or other of the classes aforesaid; and he is further authorized and required to determine according to the best of his judgment, and to declare by proclamation the boundaries of such districts, designating them respectively as being for the purposes of the present Order, Unsettled, Intermediate or Settled Districts, as the case may be.

Boundaries of Districts.

Sect. 2.—In declaring the boundaries, the Governor will not be confined to any divisions already existing in the colony, but will adopt either the boundary lines of counties, or parts of the same, or a certain fixed distance from seaports and inland towns or villages, or a certain breadth from the banks of rivers along particular parts of their course, or a certain breadth from ranges of hills, or such other boundaries as circumstances may, in the opinion of the Governor, render most convenient.

Boundaries not alterable, except by the Legislature.

Sect. 3.—After the lapse of one year from the date of such proclamation as aforesaid, the boundaries shall not be altered by any subsequent proclamation of the Governor, but it shall at any time be competent to the Colonial Legislature, by Act passed for that purpose, to extend the boundaries of the Settled Districts, or of the Intermediate Districts, so as to include in either one of them such larger extent of country as the progress of settlement may require.

Cap. II.

Rules to be in force within the Unsettled Districts.

Leases for Fourteen Years.

Sect 1.—Within the Unsettled Districts the Governor shall grant leases of runs for terms of 14 years' duration.

Amount of Rent.

Sect. 2.—The rent shall be £.10 for every 4,000 sheep (or equivalent number of cattle, according to such scale as may be established for the purpose by authority of the Governor) which the run shall be estimated capable of carrying, and £.2. 10. more for every additional 1,000 sheep (or equivalent number of cattle).

Mode of estimating number of sheep which a run will carry.

Sect. 3.—In order to estimate the number of sheep or cattle which the run will carry, the occupier and the Commissioner of Crown Lands shall each name an arbitrator, with power to choose, if necessary, an umpire; but if they cannot agree in the choice of the umpire, he shall be appointed by the Governor.

The rent of runs not to interfere with the assessment on sheep and cattle.

Sect. 4.—The above-mentioned amount of rent is to be exclusive of the existing assessment on sheep and cattle; and in no way to interfere with the right of the Colonial Legislature to impose from time to time such assessments as may be considered advisable.

When rent will be payable; and penalty for non-payment.

Sect. 5.—The rent shall be payable yearly in advance, at some time and place specified in the lease. If not so paid, the leaseholder may be permitted to make good the default within 30 days, provided that he pays an additional sum equal to one-fourth of the rent due from him; but unless the whole amount so ascertained be paid within 30 days from the original rent-day, the lease shall be forfeited, and the holder be liable to summary ejectment; and it shall be competent to any individual to demand of the Governor or any Officer or Officers acting by his authority for the present purpose, that a fresh lease of the run be offered to sale under the general rule, hereinafter provided for that purpose in Section 9; and if any individual who duly acquires the fresh lease at such sale be obstructed by the previous leaseholder in obtaining the full possession and enjoyment of the rights conveyed under the said lease, he shall be entitled to his action at law against the previous leaseholder to recover possession, and all damages which he may suffer by such obstruction.

During the lease the land saleable only to the occupant.

Sect. 6.—During the continuance of the lease the lands occupied as a run will not be open to purchase by the public; but it will be competent for the Governor to sell to the leaseholder any of these lands, comprising not less than 160 acres, at a price not lower than the general minimum of £.1 per acre.

Reserves from sale, and special prices.

Sect. 7.—The Governor, however, is not to be prevented from excepting from any such sale any lands which it may appear to him necessary to reserve for any of the public uses, for which it is enacted by the 3d clause of the Land Sales Act, 5 & 6 Vict. c. 36, that lands may be excepted from sales made under that statute; and if there be reason to suppose that any of the lands applied for under the present section possess peculiar advantages, whether of water-frontage or otherwise, which would render it fit that a higher price should be paid for them, the Governor, or any Officer authorized by him for the purpose, may require them to be assessed by persons appointed as provided in Section 3, in order that if estimated by them at more than £.1 per acre, the higher amount shall be paid for such lands accordingly.

Present occupants of runs to be entitled to leases.

Sect. 8.—All licensed occupants of Crown lands at the time when this Order in Council shall come into effect, shall be entitled to demand leases of their runs under the present Regulations.

Mode of acquiring leases hereafter of existing runs.

Sect. 9.—Individuals who may be desirous of acquiring any runs, which after being occupied, may either be forfeited, or fall vacant without the previous occupant's exercising the right of renewal hereinafter reserved to him, shall be at liberty to send in sealed tenders at such times and places, and in such form as shall be appointed for the purpose by the Governor, and the individuals so applying shall state in the tenders whether in addition to the rent to be paid, as hereinbefore provided in Sections 2 and 3, they offer to pay any and what amount of premium for the lease; and the tenders so made shall be opened simultaneously, in the presence of two or more persons authorized by the Governor for the purpose,

purpose, and the lease of the run shall be given to that person who tenders the highest amount of premium for the same. Should two or more tenders however be made for the same run, and no one of them be higher than all the rest, a future day shall be announced by the persons who open the tenders, on which day it shall again be competent to all persons to offer fresh tenders.

Mode of acquiring leases of new runs.

Sect. 10.—In the case of any entirely new run which has never been occupied before, but which any individual is desirous to acquire, he shall be at liberty to send in a sealed tender at such time and place, or such times and places, as may be appointed by the Governor for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be ascertained as hereinbefore provided, he offers any, and what amount of premium for the lease; and such tenders shall be in all respects dealt with as hereinbefore provided in Section 9, for tenders for runs which have fallen vacant, save and except that if it shall occur that two or more individuals have thus applied for different runs, of which part of one would coincide with part or the whole of another, the Governor or persons authorized by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named at which all persons shall be at liberty to offer fresh tenders for the runs so determined.

Mode by which a lease may be forfeited.

Sect. 11.—A lease will be liable to forfeiture in three modes. It will be forfeited as provided in Section 5, for non-payment of rent. It will be forfeited absolutely upon any conviction of a felony. And a conviction by a Justice of the district for any offence against the law may be inquired into within three months, by two or more Justices, who if they think fit may declare the license forfeited, with or without compensation for the value of the improvements, according to the gravity of the offence.

Conditions of sale after expiration of a lease.

Sect. 12.—Upon the expiration of a lease, it shall be competent to the Governor to put up any or all the lands included in a run to sale, subject to the following conditions:—

He shall have the option of purchasing the land for its fair value in an unimproved state, which shall never be estimated at less than the general minimum price of £.1 per acre.

If declined by the leaseholder, the value of any improvements on the land offered to sale shall be ascertained by valuers named, as in Section 3, provided that the sum so to be estimated and allowed for is in no case to exceed the amount of the actual outlay made by the leaseholder.

The upset price shall then consist of the joint value of the land and the improvements; and if the land be sold, the latter amount shall be paid over to the leaseholder, and only the balance be retained by the Government.

Conditions of renewal.

Sect. 13.—If, however, no part of the run be sold, the previous occupant shall be entitled to a renewal of his lease; or if any portions of the run, not amounting in all to one-fourth, be sold, he shall still be entitled to a renewal of his lease for the remaining parts of his run, subject to an increased rent described in the following section of these Rules, and provided always that the boundaries of the different classes of land have not in the meanwhile been so far extended by the Legislature as to bring this run within the class of Settled Lands, or that if brought within the class of Intermediate Lands, the occupant can only obtain a renewed lease under the rules presently to be laid for that class of lands.

Amount of rent on all after the first case of a run.

Sect. 14.—The rent of every lease of a run after the first lease is to be paid by any new tenant on the number of sheep and cattle which the run can carry in its improved instead of unimproved state, this number to be estimated in the same manner as provided for in Section 3; but as an encouragement to improve, the former tenant, if he renew, shall be exempt from paying any increase beyond 50 per cent. upon the amount of his previous rent.

Cap. III.

Rules within Intermediate Lands.

Leases for eight years, but with a liability to sales, under certain restrictions, at the end of every year.

Sect. 1.—Within lands coming under this description, runs shall be acquired, held and terminated exactly upon the same terms as above laid down for Pastoral Lands, excepting that the leases shall not be made for more than eight years in duration; and that at the end of each successive year, during the continuance of the lease itself, it shall be competent to the Governor, with notice as above provided, to offer any part or all the lands within any run to sale, subject to the same conditions in favour of the leaseholder as are above laid down in case of a sale at the expiration of the whole term of a lease of Pastoral Lands.

Cap. IV.

Rules within Settled Lands.

Leases for a year, and permissive occupation.

Sect. 1.—Within the boundaries of the Settled Lands, it shall be open to the Governor to grant leases of unsold lands exclusively for pastoral purposes, for terms not exceeding one year; and it shall further be competent to the Governor, if he deems it expedient, to declare certain general rules under which the holders of purchased lands within these districts may be permitted to depasture, free of charge, any adjacent Crown lands which are neither sold nor leased, provided that the depasturage of such lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same, either by sale or by lease for one year, as above mentioned.

— No. 2. —

(No. 120.)

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy*.

Sir, Downing-street, 30 March 1847.

IN my despatch, No. 68, of the 29th of November last, I transmitted to you the draft of an Order proposed to be made by Her Majesty in Council, under the authority of an Act passed in the last Session of Parliament, for the purpose of regulating the occupation of land for pastoral purposes in New South Wales. In doing so, I expressed my hope that I should soon be enabled to submit the proposed Order to Her Majesty for Her sanction, and to forward it to you as a law. I greatly regret that in this hope I have been disappointed. In the despatch to which I have referred, I informed you, that I considered it of so much importance to obtain the advice, upon this subject, of the late Governor of New South Wales, that I should wait for his arrival in this country (then expected almost immediately) before I proceeded further with the contemplated measure. Sir George Gipps reached England later than had been anticipated, and in a state of health which rendered it impossible for him at first to attend to business. Subsequently, however, his health having apparently improved, he was enabled, before his friends and his country suffered the great loss of his lamented death, to give me advice and assistance of the highest value, in the revision of the proposed regulations, of which some important modifications were consequently made. Some further delay has been occasioned by the necessity of obtaining the best legal advice I could command, in rendering the technical form of the Order, of which the substance had been settled, as perfect as possible, and it was, in consequence, not until the 9th of March that the draft thus prepared could be submitted to The Queen in Council, when, having been sanctioned by Her Majesty, it has acquired the force of law; and I have now, by the first opportunity which has since occurred, the honour of forwarding to you the Order which has thus been made.

I have thought it right to enter into this explanation, in order that it may be in your power to satisfy the members of your Council, and the inhabitants of New South Wales generally, that no unnecessary delay has taken place in completing an arrangement which is, I know, anxiously expected by them, as deeply affecting the future prospects of the colony. I trust that the Order in Council, which I at length transmit, will be found to contain provisions calculated to promote both the immediate and the future welfare of the colony, and I have the more confidence that this will be the case, as, while upon many points the wishes most earnestly pressed upon me by the stockholders of New South Wales have been acceded to, the arrangement, as a whole, had obtained the approbation of Sir G. Gipps, than whom no one had on this subject more accurate and extensive knowledge or a sounder judgment.

I have, in the despatch already quoted, so fully explained the views upon which this Order in Council is founded, and its main objects, that it is needless that I should again revert to these topics; I will, therefore, in the present communication, confine myself to some few observations on the most material changes which have been made in the provisions of the Order as finally made by Her Majesty in Council, from those contained in the original draft of the measure, and also on some points specially brought under my notice by gentlemen interested in the subject, and now in this country, to whom I caused that draft to be communicated.

The most material of the changes which have been made in the regulations at first proposed, is that by which, instead of leaving the classification of the lands of the colony to be settled by yourself, it has been made by Her Majesty's direct authority, and is embodied in the Order in Council. Great objection was made by some of the gentlemen connected with the colony to the proposed delegation of authority upon this subject to the Governor; and in urging that objection, arguments were used which convinced me, that if such a delegation of authority were made, you would have to encounter very strenuous efforts on the part of a numerous and powerful class of the inhabitants of New South Wales, to induce you to include amongst the "Unsettled Lands" much of the territory which ought more properly to be classed with the "Intermediate Lands." I have, in my former despatch, explained to you the great importance which I attach to avoiding an

error of this kind, with a view to the interests of future settlers, and how great was my anxiety that no undue extension should be given to the lands to be defined as "Unsettled," and which would thus be put out of the power of the Crown, and rendered unavailable to the public for purchase for the long period of 14 years. Entertaining this view of the subject, the letters which I have received convinced me that I should relieve you from a painful and invidious duty, and from a very serious responsibility, if I could succeed in defining, by provisions to be introduced into the Order in Council, the lands to be classified as "Unsettled" and as "Intermediate;" and finding that by Sir G. Gipps' assistance this could be done in a manner which I considered satisfactory, I gladly availed myself of his aid to effect this improvement in the regulations.

You will perceive that the Intermediate Lands have been so described as to provide for the probable course of settlement along the banks of navigable rivers, and also for the improvements which may hereafter arise on each side of any railways constructed in the colony.

It was once proposed that the squatter should have the right of buying any block of not less than 320 acres within his run; it was intended that he should have this privilege even as to blocks of half that extent. But, in the Order as passed by Her Majesty, this has been modified by introducing the same regulations as to the shape of the blocks, and the proportion of water-frontage which experience has already dictated in similar rules framed in the colony.

All the gentlemen from whom I heard on the regulations, concurred in representing, that 30 days was too short a time within which to allow persons to make good a default in the payment of rent. I think their representations on this point were quite reasonable, and the term has accordingly been extended to 60 days.

To the rule that a lease may be declared forfeited by Two Justices, it has been thought proper to add a proviso in favour of the squatter, that such forfeiture should not take effect unless submitted to and confirmed by the Governor.

With regard to Intermediate Lands, I may take this opportunity of correcting a misapprehension, which, I have reason to think, has materially influenced the remarks made by Mr. Boyd, as well as, probably, by Mr. Scott, on that class of lands. Although liable at the end of each year to be put up to sale, the squatter on these lands will be perfectly secure for eight years against any one who merely requires a lease. The actual occupier can only be deprived of his holding if his run or any part of it should be demanded for purchase, and even in that case he will have a right of pre-emption; and if he should not avail himself of this right, and thus allow some other person to purchase the land, he will still have a claim for the value of any improvements he may have made. I have mentioned this, because I think that at first sight it was not understood how the proposed leases for eight years would be reconcilable with the contingency of a demand for part of the lands at the end of every year.

I believe I have now noticed all the more general remarks contained in the letters which I have received, and I have also drawn your attention to the principal changes made in the Regulations since the original draft of them was forwarded for your information. I can only state, in conclusion, that they have been the result of a very anxious deliberation; that they have not been framed without inviting and hearing the opinions of a variety of persons in this country connected with the colony; and that, whilst I look with satisfaction on the concessions which they contain to that enterprising class, by which the products and the wealth of New South Wales have been so largely increased of late years, I trust that they also secure proper accommodation for other classes of the community who may desire to occupy land for other purposes, and that they will be found not inconsistent with the gradual spread of the settled population beyond its present boundaries.

I have, &c.
(signed) *Grey.*

AT the Court at Osborne House, Isle of Wight,
the 9th day of March 1847.

Present:

THE QUEEN'S MOST EXCELLENT MAJESTY IN COUNCIL.

Whereas by an Act passed in the present year of Her Majesty, intituled, "An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the Management thereof," after reciting that it might be expedient that various Rules and Regulations should be made respecting the more effectually making Demises or Licenses for any term of years not exceeding 14, of any such Waste Lands as therein mentioned, and respecting the reservation on such Demises or Licenses of any such rents or other pecuniary services, and respecting the insertion therein of such conditions and clauses of forfeiture as are therein mentioned, and respecting the division of the said Colonies into Districts within which alone such Demises or Licenses might be made to take effect, and respecting the renewal of any such Demises or Licenses, and respecting the conflicting claims of different persons to obtain any such Demise or License, and respecting any right of pre-emption which it might be proper to give to the holders of any such Demise or License, and respecting the forfeiture of any such Demises or Licenses on the conviction of any holders thereof of certain offences in any such Colony, and respecting any other matters and things which might be requisite either for carrying into more complete effect the occupation in manner therein mentioned of such Waste Lands as aforesaid, or for preventing the abuses incident thereto: It was enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such Rules and Regulations as to Her Majesty should seem meet for the purposes aforesaid, or for any of them; and any such Rules and Regulations again to repeal, renew, alter and amend; and that all such Orders in Council should have the force and effect of law in the Colonies aforesaid:

And whereas it is expedient that the Rules and Regulations hereinafter contained, should now be made and established for regulating the occupation of the Waste Lands of the Crown in the Colony of New South Wales: It is hereby ordered, by THE QUEEN's most Excellent Majesty, by and with the Advice of the Privy Council, that within the said Colony of New South Wales the Rules and Regulations comprised in the following Chapters shall henceforth be observed, and have the force and effect of law.

Cap. I.

As to the Division of the Lands in New South Wales.

Classification of Lands.

Sect. 1.—The Lands in the Colony of New South Wales shall, for the purposes of the present Order, be considered as divided into three classes, and be dealt with accordingly as they may be situated in districts, to be denominated respectively as the Settled, the Intermediate and the Unsettled Districts.

Sect. 2.—*The Settled Districts* of the Colony shall comprehend—

Settled Districts.

I. The 19 contiguous Counties, the boundaries of which were settled and proclaimed before the 1st January 1838.

II. The Counties or reputed Counties of Macquarie and Stanley.

III. The Lands which may be within a distance of 25 miles, to be measured or reckoned from any point of the corporate limits of the town of Melbourne, in the county of Bourke.

IV. The Lands which may lie within the distance of 15 miles from any point of the outward limits of the Town of Geelong, in the County of Grant.

V. The Lands which may lie within the distance of 10 miles from any point of the outward limits of each of the following Towns or Townships; viz.

Portland, in the County of Normanby;

Alberton, in the District of Gipps' Land;

Eden, in the County of Auckland;

Bathurst, in the County of Roxburgh;

Wellington, in the County of the same name;

The Town which has been established at the head of the navigation of the River Clarence;

The Town of Macquarie, in the County of Macquarie;

The Town of Ipswich, in the County of Stanley.

VI. The Lands which may lie within the distance of three miles from any part of the Sea, throughout the extent of the Colony, measured in a straight line.

VII. The Lands which may lie within the distance of two miles from either of the two opposite banks of any of the following Rivers; viz.

The Glenelg, from a point to be fixed by the Governor, not lower than where the Glenelg receives the waters of the Crawford, nor higher than where it receives the waters of the Wannow;

The Clarence, from a point to be fixed by the Governor, at a distance not less than 10 miles above the Government Township at the head of the navigation, and not less than 50 miles from the Sea (measured in a straight line);

The River, now known by the name of the Richmond, from a point to be fixed by the Governor, at a distance not less than 20 miles from the Sea, measured along the course of the River.

Sect. 3.—*As to the Intermediate Districts.*

Intermediate Districts.

The Intermediate Districts shall comprehend the lands lying within the Counties or reputed Counties of Bourke, Grant and Normanby, in the District of Port Phillip, which are not hereinbefore directed to be included in the Settled Lands; also all the lands in the County or reputed County of Auckland, which are not included in the Settled Lands as hereinbefore mentioned; also the entire District of Gipps' Land, except the parts included in the Settled Lands as hereinbefore mentioned; also the Counties either already formed or intended to be formed between the County of Auckland and the County of St. Vincent; also any County or Counties of which the boundaries may be fixed and proclaimed on or before the 31st December 1848.

Sect. 4.—*As to the Unsettled Districts.*

Unsettled Districts.

The Unsettled Districts shall comprehend all the lands of New South Wales excepting such lands as are now, or hereafter lawfully may be, comprehended within the limits of the Settled and Intermediate Lands within the said Colony.

Cap. II.

Rules to be enforced within the Unsettled Districts.

Leases for 14 years.

Sect. 1.—It shall be lawful for the Governor for the time being of the said Colony, or the Officer for the time being administering the Government of the said Colony, and he is hereby empowered to grant leases of runs of land within the Unsettled Districts to such person or persons as he shall think fit, for any term or terms of years, not exceeding 14 years in duration, for pastoral purposes, with permission, nevertheless, for the lessee to cultivate so much of the lands respectively comprised in the said runs as may be necessary to provide such grain, hay, vegetables or fruit, for the use and supply of the family and establishment of such lessee, but not for the purposes of sale or barter; and so, nevertheless, that such leases shall in no case prejudice, interrupt or interfere with the right of the Governor or other Officer for the time being administering the Government of the said Colony, to enter upon any of the lands comprised in the said leases for any purpose of public defence, safety, improvement, convenience, utility or enjoyment, agreeably

agreeably to the provisions for those purposes contained in the 9th section of the 2d Chapter of this Order in Council, or otherwise.

Amount of rent, how to be regulated.

Sect. 2.—The rent to be paid for each several run of land shall be proportioned to the number of sheep, or equivalent number of cattle which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose by authority of the Governor. Each run shall be capable of carrying at least 4,000 sheep, or equivalent number of cattle, according to the scale aforesaid, and not in any case be let at a lower rent than £.10 per annum, to which £.2. 10. per annum shall be added for every additional 1,000 sheep, or equivalent number of cattle which the run shall be estimated as capable of carrying.

Mode of estimating number of sheep which a run will carry

Sect. 3.—In order to estimate the number of sheep or cattle which each run will carry, before the granting of the said lease as hereinbefore mentioned, the intended lessee or occupier shall name a valuer, and the Commissioner of Crown Lands shall either act as valuer or name one to act for him, and these two valuers shall have power to choose, if necessary, an umpire, but if they cannot agree in the choice of an umpire, he shall be appointed by the Governor or the Officer for the time being administering the Government of the said Colony.

The rent of runs not to interfere with the assessments on sheep and cattle.

Sect. 4.—The rents to be paid according to the scale above-mentioned, are to be reserved exclusively of any existing assessments of taxes or rates on sheep and cattle, and are to be paid without abatement on account of the existing or any future assessments of taxes or rates on sheep and cattle, and in no way to interfere with the right of the Colonial Legislature to impose from time to time such assessments as may be deemed advisable.

Rent when and where to be paid, and penalty for non-payment.

Sect. 5.—The rent for each run shall be payable yearly in advance, at such time and place as shall be respectively specified in the lease of the said run of land. In the event of default being made in payment of the rent, the lease shall be forfeited, but the lessee shall be permitted to defeat the forfeiture, and prevent its becoming absolute and indefeasible, by payment, within 60 days from the date of the original rent-day, of the full annual rent, with the addition of a sum equal to one equal fourth part of the yearly rent so due from him by way of penalty; but unless the whole of the said yearly rent, with such penalty as aforesaid, shall be duly paid within the term of 60 days, counting from the original rent-day inclusive, the lease shall be absolutely and indefeasibly forfeited; and it shall be competent to any individual to demand of the Governor or of the Officer for the time being administering the Government of the Colony, or of any Officer or Officers acting by his authority for the present purpose, that a fresh lease of the run so forfeited be offered to sale under the general rule hereinafter provided for that purpose, in section 12 of this Chapter.

During the lease, the land saleable only to occupant.

Sect. 6.—During the continuance of any lease of lands occupied as a run, the same shall not be open to purchase by any other person or persons except the lessee thereof; but it shall be lawful for the Governor, or of the Officer for the time being administering the Government of the said Colony, to sell to such lessee any of the lands comprised in the lease granted to such lessee, provided that the quantity of the lands sold to such lessee shall not be less than 160 acres, and that the price to be paid for the same shall not be below the general minimum price of £.1 for each acre: Provided also, That if the portion or lot of any such run sold to such lessee be less in extent than 320 acres, the expenses of the survey of the portion so sold shall be paid by the purchaser.

Form and water frontage of any Lots sold within runs.

Sect. 7.—Every lot to be sold under the provisions before-mentioned, shall be subject to the following conditions:

I. Each lot must be rectangular, unless the features of the country, or the course of any river or stream render a deviation from the rectangular form necessary; and in every case two sides at least of the lot must be directed to the cardinal points of the compass.

II. The two opposite sides of any stream or watercourse which, according to the practice of the department of the Surveyor-general ought to form a boundary between different sections or lots, shall in no case be included in the same lot.

III. No single lot shall have more than 440 yards of water-frontage for 160 acres, or more than a like proportion of water-frontage for any quantity

greater than 160 acres; but the water-frontage shall be reckoned according to the distance from one extreme point thereof to the other, in a right line, and not according to the bendings of the watercourse or river; and the Governor or Officer for the time being administering the Government of the said Colony, shall have the right of refusing to sell any lot or lots in every case where it may appear to him that the sale of such lot or lots respectively might give an undue command over water required for the beneficial occupation and cultivation of the lands adjoining either side of any stream or watercourse.

Reserves from sale and special prices.

Sect. 8.—It shall be lawful for the Governor or Officer for the time being administering the Government of the said Colony, to except out of any such sale or sales as aforesaid, all such lands as it may appear to him expedient to reserve for any of the public uses for which it is enacted by the third clause of the Act passed in the fifth and sixth years of Her Majesty, c. 36, intituled, "An Act for regulating the Sale of Waste Lands belonging to the Crown in the Australian Colonies," that lands required for public uses, may be excepted from sales authorized by that Act; and if there be reason to suppose that any of the lands applied for under the Regulations hereby expressed, possess peculiar advantages, whether of water-frontage or otherwise, which would render it fit that a higher price should be paid for such lands, the Governor or the Officer for the time being administering the Government of the said Colony, or any Officer authorized by him for the purpose, may require the said lands to be assessed by valuers appointed in manner provided in section 3, of the 2d Chapter of this Order in Council, in order that the value, if estimated by them or their umpire at more than £. 1 per acre, the higher amount may be paid for such lands accordingly.

Grants for public purposes.

Sect. 9.—That nothing in these Regulations, or in any lease to be granted under the powers hereby vested in the Governor, shall prevent the said Governor or Officer for the time being administering the Government of the said Colony, from making grants or sales of any lands within the limits of the run or lands comprised in such lease, for public purposes, or disposing of in such other manner as for the public interest may seem best, such lands as may be required for the sites of churches, schools or parsonages, or for the construction of high roads or railways, and railway stations or other internal communications, whether by land or water, or for the use or benefit of the aboriginal inhabitants of the country, or for public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing-places on the sea-coast or shores of navigable streams, or for the purpose of sinking shafts and digging for coal, iron, copper, lead or other minerals, and effectually working coal or iron, copper, lead or other minerals, or for any other purpose of public defence, safety, utility, convenience or enjoyment, or for otherwise facilitating the improvement and settlement of the Colony; but so that the quantity of land which may be granted or sold to any Railway Company shall not exceed in all the rate of 100 acres for every mile thereof in length.

Sect. 10.—That if at any future period, a railroad be made through or near to the districts comprising unsettled lands, all lands within the distance of two miles from that railroad shall, notwithstanding any lease of the run within which such lands shall be situated, be liable to be sold at the end of each successive year from the date of the said lease, provided that at least 60 days previous notice shall have been given to the lessee, and so that such lessee shall be entitled to all the same conditions, reserving to the previous lessee the right of pre-emption, and the value of improvements, as are hereinafter mentioned with reference to the case of a sale at the expiration of the full term of such lease.

Mode of acquiring Leases of existing runs.

Sect. 11.—All occupants of Crown Lands who shall have been in licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present Regulations, within six months from the date of the publication of this Order in Council by the Governor or other Officer administering the Government of the said Colony, but not afterwards, and all occupants who have been in licensed occupation of their lands for a shorter period than the term of one year, shall be entitled, upon the expiration of the same term of one year, without having forfeited their respective licenses, to demand leases of their respective runs,

runs, under the Regulations herein contained, provided such lease shall be lawfully demanded within six months after the expiration of the said term of one year, but not afterwards.

Mode of acquiring Leases of forfeited or vacant shares.

Sect. 12.—When any run of lands after being occupied shall be forfeited or become vacant, without the previous occupant's having exercised his right of renewal hereinafter reserved, it shall be competent for any person desirous of acquiring a lease of such run of lands to give notice to the Governor or Officer for the time being administering the Government of the said Colony, of his, her or their desire to purchase anew the lease of such run of lands; and immediately after such notice, the Governor or Officer administering the Government of the said Colony shall direct sealed tenders to be sent in, at such time and place, and in such form as he shall shink fit, by the person giving such notice as aforesaid, and also by such other person (if any) as may be disposed to enter into competition for the said lease; and every tender so to be made shall state the term of years for which it is proposed to take the said run, and whether in addition to the minimum rents required agreeably to the provisions contained in sections 2 and 3 of the 2d Chapter of this Order in Council, it is proposed to offer any, and if any what amount of premium for the lease; and the said tender or tenders shall be opened in the presence of two or more persons authorized by the Governor or Officer for the time being administering the Government of the said Colony for that purpose; and if there shall be more than one tender, the tenders shall be opened at the same time; and if there shall be only one tender, the lease of the run shall be given to the person making such tender, provided the rent offered shall be admissible under the provisions contained in sections 2 and 3 of this Chapter of this Order in Council; but if there shall be more competitors than one, the lease of the run shall be given to such person or persons as shall tender the highest amount of premium for the same; but if two or more tenders shall be made for the same run, and no one of them be higher than all the rest, a future day shall be announced by the persons who open the tenders, on which day it shall again be competent to all persons to offer fresh tenders, in the same manner as hereinbefore provided in regard to the first tenders.

Mode of acquiring Leases of new runs.

Sect. 13.—If any individual be desirous to acquire a new run of land which has never been occupied before, he shall be at liberty to send in a sealed tender at such time and place, and in such form as may be appointed by the Governor or Officer administering the Government of the said Colony, for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be ascertained as hereinbefore provided, he is willing to offer any, and if any what amount of premium for the lease, and such tenders shall be in all respects dealt with as hereinbefore provided in section 12 of this Chapter of this Order in Council for tenders for runs which have been forfeited or fallen vacant, save and except that if it shall occur that two or more persons have thus applied for different runs, of which part of one run would include part or the whole of another run, the Governor or Officer for the time being administering the Government of the said Colony, or the person or persons authorized by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named, at which the previous applicants and all other persons shall be at liberty to offer fresh tenders for the runs so declared.

Mode by which a Lease may be forfeited.

Sect. 14.—A lease shall be liable to forfeiture in three modes:—

I. It shall be forfeited for non-payment of rent, as provided in section 5 of the 2d Chapter of this Order in Council;

II. It shall be forfeited absolutely immediately upon any conviction for felony against the lessee; and

III. In the event of his conviction by a Justice of the district for any offence against the law, the case may be inquired into within three months after the conviction by two or more Justices, who, if they think fit, may adjudge the lease to be forfeited, with or without compensation for the value of the improvements, according to the nature of the offence.

Provided always, That no such adjudication of forfeiture pronounced by the Justices shall take effect until confirmed by the Governor or Officer administering the Government of the said Colony.

Conditions of sale after the expiration of a Lease.

Sect. 15.—Upon the expiration of a lease, it shall be competent for the Governor, or Officer for the time being administering the Government of the said Colony, to put up all or any part of the lands included in a run for sale, subject to the following conditions:—

I. The previous lessee shall have the option of purchasing the land for its fair value in an unimproved state, which shall never be estimated at less than £.1 per acre;

II. If declined by the previous lessee, the value of any improvements on the land offered for sale shall be ascertained by valuers appointed under the provisions contained in section 3 of the 2d Chapter of this Order in Council: Provided, nevertheless, That the sum so to be estimated and allowed for is in no case to exceed the amount of the actual outlay made by the lessee.

III. The upset price shall then consist of the joint value of the land, and the improvements, and if the land be sold, the amount of the improvement shall be paid over to the previous lessee, and only the balance be retained by the Government.

Conditions of renewal.

Sect. 16.—If no part of the run be sold, the previous lessee shall be entitled to a renewal of the lease of the whole, or if any part of the run, not amounting in all to one equal fourth thereof, be sold, such lessee shall be entitled to a renewal of the lease for the remaining parts of the lands comprised in his run, subject to the reservation of an increased rent, described in the next hereinafter following section of these Rules and Regulations; and provided nevertheless, that the boundaries of the different classes of land in the Colony shall not, in the meanwhile, have been so far extended as to bring the said run within the class of Settled Lands; and provided also, that if brought within the class of Intermediate Lands, the lessee shall only obtain a renewed lease of the said run, under the rules hereinafter laid down as applicable to that class of lands.

Amount of rent on all after the first Lease of a run.

Sect. 18.—The rent of every lease of a run of lands, after the expiration of the first lease granted under this Order in Council, is to be paid by any new lessee, on the number of sheep and cattle which the run shall be estimated to carry in its improved instead of its unimproved state, in the same manner as provided for in sect. 3, of the 2d Chapter of this Order in Council; but as an encouragement to improve, the lessee whose lease shall be renewed, is to be exempt from paying any increase beyond 50 per cent. upon the amount of rent reserved under the expired lease.

Cap. III.

Rules applicable to Intermediate Lands.

Leases for eight years but with a liability to Sales, under certain restrictions, at the end of every year.

Sect. 1.—Within lands coming under the description of Intermediate Lands, the interest in runs shall be acquired, held and determined, upon the same terms and conditions as above laid down for Unsettled Lands, excepting that the leases shall not be made for more than eight years in duration; and that at the end of each successive year from the date of the lease, it shall be competent for the Governor or Officer for the time being administering the Government of the said Colony, provided he shall have given 60 days previous notice, to offer for sale all or any part of the lands within any such run, subject to the same conditions in favour of the lessee as are above laid down in case of a sale at the expiration of the full term of a lease of Unsettled Lands.

Cap. IV.

Rules applicable to Settled Lands.

Sect. 1.—Within the boundaries of the Settled Lands, it shall be competent for the Governor or Officer for the time being administering the Government of the said

said Colony, to grant leases of lands exclusively for pastoral purposes, for terms not exceeding one year, and it shall further be competent for the Governor or Officer for the time being administering the Government of the said Colony, if he deem it expedient, to make general rules under which the holders of purchased lands within such districts of Settled Lands may be permitted to depasture, free of charge, any adjacent Crown Lands, provided that the depasturage of such unsettled lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same either by sale or by lease for one year, as above mentioned.

And the Right honourable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(signed) *Wm. L. Bathurst.*

NEW SOUTH WALES.

ORDER in COUNCIL, dated 9th March 1847, for establishing REGULATIONS relative to the OCCUPATION of WASTE LANDS in *New South Wales*, under the Powers for that purpose contained in an Act passed in the 9th and 10th Year of Her Majesty's reign, c. 104.

(*Presented pursuant to Act* 9 *&* 10 *Vict., c.* 104.)

Ordered, by The House of Commons, *to be Printed,*
31 *March* 1847.

252.

Under 3 *oz.*

PAPERS

RELATIVE TO

THE OCCUPATION OF CROWN LANDS,

NEW SOUTH WALES.

(*In continuation of Papers presented* 1847, *viz.*,—*Sessional Paper, House of Lords, No.* 114 *of* 1847; *Sessional Paper, House of Commons, No.* 252 *of* 1847).

Presented to both Houses of Parliament by Command of Her Majesty.

LONDON:

PRINTED BY W. CLOWES AND SONS, STAMFORD STREET,
FOR HER MAJESTY'S STATIONERY OFFICE.

1848.

SCHEDULE.

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PAPERS

RELATIVE TO

THE OCCUPATION OF CROWN LANDS IN NEW SOUTH WALES.

(No. 125.) No. 1.

No. 1.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Answered Dec. 20, 1847, page 130.

Government House, Sydney,
June 19, 1847.
(*Received December* 13, 1847.)

MY LORD,

AT the request of Mr. Robert Lowe, a member of the Legislative Council of this colony, I have the honour to transmit a letter, addressed by him to your Lordship, forwarding a pamphlet which he has recently published, entitled "The Impending Crisis, an Address to the Colonists of New South Wales on "the proposed Land Orders." June 11, 1847.

I have, &c.,
(Signed) C. A. FITZROY.

The Right Hon. Earl Grey,
&c. &c.

Enclosure in No. 1.

MY LORD, Sydney, June 11, 1847. Encl. in No. 1.

I RESPECTFULLY request your Lordship's perusal of the annexed very short pamphlet. Except as a well-wisher to the colony, I have no interest whatever in this question; I occupy no country land either within or beyond the boundaries of location. The only property I possess in the colony is a few houses in Sydney, and my own residence in its neighbourhood. I have resided in New South Wales since 1842, the year in which the minimum price of land was raised to 1*l.* an acre, and had an opportunity of watching the system from its commencement. As a proof of the entire failure of that system in raising a land fund, I may be allowed to call your Lordship's attention to the fact that in the year 1836, when the whole population of the colony consisted only of 77,096 men, women, and children, the amount of the land fund was 126,458*l.*, whereas from the year 1842, when the population was 159,859, to the year 1846, when the population was 181,556, both inclusive, the gross amount of land sales, not for each of these years, but for all of them put together, is not quite 80,000*l.*

I have, &c.,
(Signed) ROBERT LOWE.

The Right Hon. Earl Grey,
&c. &c.

THE IMPENDING CRISIS: An ADDRESS to the COLONISTS of NEW SOUTH WALES, on the PROPOSED LAND ORDERS, by ROBERT LOWE, Esq., M.C., Barrister at Law, late Fellow of Magdalen College, Oxford.

"How Nations sink by darling schemes oppressed,
When vengeance listens to the fools' request."—*Dr. Johnson.*

FELLOW COLONISTS.—The present state of the land question is so momentous—the interests affected by it are so vast, and the danger which threatens them so imminent, that I make no apology for addressing you on the subject. There are many whose interest it is to mystify and mislead you on this matter. Its real aspect has been studiously concealed from you—its real importance sedulously extenuated. I have no such interest—no such wish. I cannot show my sincerity better than by braving the resentment of a powerful class for the sake of the whole community. I have done my duty by pointing out to you in the following pages, the real state of your affairs, do you do yours by applying to them the only remedy of which they are capable.

The position of the squatter has always varied with the price of land. Precarious when land is low, more assured when it is high, and little short of the freehold, when the sale of land is as now, virtually prohibited. Up to the year 1841, when the price of land was raised from 5*s.* to 12*s.* per acre, the squatters looked upon themselves, and were regarded by the community, as merely temporary occupants, depasturing the land till it was wanted for sale—as persons who *might* soon, and *must* eventually, be removed, to make way for the proprietor in fee simple.

The Act of Parliament which passed in 1842, for raising the minimum price of land to 1*l.* per acre, was not *intended* to have any effect on the position of the squatter, it was intended, as

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Lord Grey tells us, to prevent jobbing—to concentrate the population—to bring out immigrants by raising a large land fund, and by means of such immigrants, to raise the value of land. Instead of preventing jobbing, it has sacrificed almost the whole territory to one vast job. Instead of concentration, it has given us dispersion—it has destroyed the land fund which it was intended to raise—stopped the immigration it was intended to promote—and annihilated the value of the land it was intended to enhance.

But though this Act failed entirely in the objects it was intended to promote, it has produced other results foreseen neither by its advocates nor its opponents. The squatters began to look upon it as their charter. Considering that they held the land till it was required for purchase, and that purchase had been made by Parliament impossible—they began to look upon their runs as their own. Being sure that they would not be dispossessed by a purchaser, and fearing no other disturbance, they foresaw no end to their possession, and began to sprout from tenants at will into freeholders.

Sir George Gipps saw the danger, but instead of meeting it by a reduction of the minimum price of land, which would at once have extinguished these aspiring hopes, and restored the squatters to their original moderation, he sought, by showing them the precarious nature of their tenure, by exacting an arbitrary tribute, more objectionable in its nature than its amount, and by withholding from them all the machinery of the government to which they contributed, to check this encroaching spirit. This injudicious harshness had precisely the contrary effect. It united in favour of the squatters all the liberal and constitutional men in the community; and had their enthusiasm been as well directed as it was honest, the efforts which they made would not only have defeated the Government, but removed the virtual prohibition from the sale of land. Unfortunately, however, advantage was taken of this indignation by designing and interested persons, to divert public attention from the real cause of the evil—the high price of land, which alone had made the squatting question of importance, and to fix it on the plausible but delusive palliative afforded by leases and pre-emption. In the hurry and eagerness of fear and anger, men did not perceive how entirely this new aspect of the squatting question arose from raising the price of land—how intimately the two subjects were connected, and how impossible it was to remedy the one grievance except by remedying the other.

It is, however, a mistake to suppose that the Committee of the Legislative Council on Grievances connected with Land, recommended absolutely a system of leasing. They recommended above all things, the reduction of the price of land, and subject to that, the giving the disposal of the land to the Legislative Council, that they might devise such a system of leasing and pre-emption as they might think proper. Had this recommendation been taken as a whole, the Colony would be now free from the danger with which it is threatened. The misfortune is that the Home Government has taken only a part, the part on which the Committee laid least stress, and which, without the accompanying reduction of the minimum price of land, the Committee would never have recommended nor the Council have adopted.

It is needless to dwell upon the vacillating and contradictory schemes of the Home and Local Governments during the years 1845 and 1846, in which they seem to have considered every expedient for settling the question, except the only effectual one—the reduction of the price of land. At last the statute 9th and 10th Vic. cap. 104, was passed. By this Act Parliament being too indolent or too ignorant to deal with the question, delegated the powers which it has withheld from the Legislative Council of New South Wales, to the Privy Council of England. The Privy Council has transmitted a set of proposed rules to the colony, not for the purpose of obtaining the opinion of the colonists (for what right have they to have an opinion about their own affairs), but to prepare the Local Government for the exercise of those powers which the Privy Council, the delegate of Parliament, has delegated to it. These rules are in substance—that the Governor shall divide the lands of the colony into three districts, to be called the "settled," "intermediate," and "unsettled." The settled lands are to be sold by auction, at 1*l.* per acre upset price, and the unsold parts are to be leased for not more than one year, and as it should seem by auction. In the unsettled lands, every holder of a license is entitled to demand a lease for 14 years. His rent is to be 2*l.* 10*s.* for every 1000 sheep, or proportionate number of cattle, which the run will carry—during the 14 years nobody else can buy the run, but the lessee may buy without auction any portion of the run, not less than 160 acres. At the end of the lease, the lessee is entitled to a renewal for another 14 years, unless at least one-fourth of the run be sold at auction, where the upset price will consist of 1*l.* an acre and the value of the improvements. In the intermediate districts, the lease is to be for only eight years, and the land liable to be sold at the end of every year; in other respects it resembles the lease in the unsettled districts.

The first observation on this is, that the Governor is called upon to do that which should be trusted to no man in a free country. He is not merely to divide the country into districts, but by such division to decide upon the rights and fortunes of individuals—to make this man and to mar that. Of course every influence and importunity will be used to sway his integrity, and if he escape the reality of corruption, he cannot hope to escape the suspicion. If he makes the settled districts small, he will be abused by the colony—if large, by the squatters, whom he disinherits of their imaginary freeholds. It is too late to make such a division now, it should have been made before the colony was settled. It is not dealing with a map, but with flesh and blood. How this division is to be carried out, or how the lands contained in the proposed leases are to be described, in a country not yet surveyed, and of such vast extent, is a mystery which the event alone will solve.

But let us suppose the division to have been made, and the leases to have been granted, what will be the effect on the interests of the colony? In my opinion the most disastrous possible. As long as the squatters remained tenants at will merely, it was always in the power of the

Home Government, at least until their possession had ripened into title, to re-open the waste lands to purchasers, and once more invite capital to the colony by reducing the minimum price. But once grant these leases, and beyond the settled districts, it matters not whether they reduce the minimum price or no, there will be no land to be sold. The lessees of the intermediate and unsettled land will then really have got what they pretend now to have—a vested interest in the maintenance of the minimum price—a right to hold their lands until some one will give at least 1*l.* an acre for them. To this the Government will be solemnly pledged, and from this, therefore, it cannot depart. So long as the squatters hold under licenses merely, the Home Government can retrace its steps, but once give them vested interests, and the policy, however pernicious, is irrevocable.

These leases are not, it should seem, assignable nor divisible—the privileges conferred by them are personal to the occupant, and the orders recognise no way of terminating his possession, except by forfeiture. In other words, they will resemble an entailed property—they cannot be sold, nor mortgaged, nor sub-let. Within the settled districts, or the small part of them which is or will be sold, landed property will have its usual incidents. Beyond the settled districts, it will have none of them. Be the capabilities of these lands what they may, they are to be a sheep-walk for ever. The growing population of the settled districts will find no vent there. Up to a certain capriciously marked line civilization is to go—beyond that all is to be wild and desolate. The increase of the human race is to be checked to give free scope for that of beasts. Man is to be penned within narrow limits, that sheep and cattle may have leave to roam at large. The Home Government, which raised the price of land to enforce concentration, is now, in the sequel of its policy, compelling dispersion.

It has been before remarked, that even while permissive occupants only, the squatters built upon the high price of land the hope of obtaining the freehold without paying for it. If they did these things in a green tree, what will they do in a dry? If the high price of land inspired them with hopes when they held under licenses, revocable at any moment, what will the same price of land do when they hold under leases, irrevocable, and renewable for ever, till they find some one ready to buy them out by paying 1*l.* an acre for their runs to the Government, together with the value of their improvements to themselves. The real substantial ownership of the soil they will unquestionably acquire the moment the leases are granted to them. Long before the period of fourteen, or even eight years expires, the squatters will be all-powerful in the Legislature—and most of the influential residents within the boundaries will have as friends, as relations, or creditors, the strongest motives to assist them in asserting their claims. The benefit of restoring these lands to the public will be regarded with all the coldness of political apathy. The injury of depriving the squatter of his run will be felt by himself, by his connections, and by his class, with all the keenness of private and personal interest. In this unequal contest, the Home Government is far more likely to side with the squatter than with the colonist. It will regard them as the germ of a loyalist party—as a party, which, like the Cromwellian settlers in Ireland, will hold its lands by the tenure of union, and see in a separation from the mother country, not so much the severing of political ties, as the resumption of its unjust territorial acquisitions. How soon they will deem it politic to throw off the mask, and declare their runs to be what they even now consider them—their own, it is impossible to predict. The sooner the better. The spoliation of the colony will be complete as soon as the leases are granted—the only compensation she can then receive will be, in the removal of the embargo which the lease will lay upon her land, till it be exchanged for a grant. There is another means by which the squatter may, even under the letter of the proposed orders, without intrigue or combination, or any other aid than his superior local knowledge, make sure of his run—by exercising his pre-emptive right in buying up all the water and water frontage it contains, and thus rendering the run valueless to any one except himself. What have the rest of the colonists done that they should be debarred from this competition?

The price which he is to pay for these privileges is three-fifths of a penny for a sheep, or, allowing three acres for a sheep, one-fifth of a penny per acre. The last "free grants," as they are ironically called, reserved an annual quit rent of two-pence an acre. Thus does a Government, which is so niggard of its land that it will not part with the fee simple of the most barren rock for less than 1*l.* an acre, while that law still remains in force, alienate millions of fertile acres at one-tenth of the rent which it reserved on its free grants. If this is the case with regard to grantees, what shall be said of those who purchased lands, and by their outlay brought to the colony much of the very labour which the squatters are now employing. They were led to purchase by the promise of convict labour—that labour has been withdrawn; by the hope of immigration—that immigration has been checked; by the reasonable expectation that the systematic settlement of the country would go on—that settlement has been arrested. And now, thus deluded and defrauded, they see the Government which impoverished them by its avarice prepare to ruin them by its prodigality. By raising the price to 1*l.* an acre, the Government deterred any one from looking for land in New South Wales—by giving it away almost for nothing, they will render it a drug, and depreciate its value for generations. The Government first induces its subjects to purchase by false representations, and then enters into the market against them, and beats down the value of the commodity which it has sold to nothing. Such is the treatment the men have received by whose exertions the colony has been made what it is.

One thing I would suggest to the squatters themselves, that though many of them will undoubtedly obtain a freehold under these orders, many others will be placed by them in a far worse position than they now occupy. However narrow the construction which these orders may receive, it can hardly be supposed that a large portion of Port Phillip, Gipps

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Land, Maneroo, and New England, will not be placed within the settled districts. Let the occupants of runs within these limits consider how far it is for their interest to exchange their present tenure for yearly leases, whose rent shall be determined by auction, and whether they are likely to reap much benefit from a measure which, while it gives a freehold to the squatter of the interior, exposes those near the coast to this vexatious and ruinous competition.

The question yet remains, what is the remedy for this impending ruin? There is but one remedy, the reduction of the minimum price of land to a sum not greater than its real value. It was the raising of this price that has caused all this disorder—it is the lowering of it which alone can remove it. Reduce this price and the question will settle itself. The settlement of the country will go on, and the squatters will be gradually absorbed into the class of freeholders. Retain it, and as was predicted by Sir George Gipps, this law made for the preservation of the waste lands will end in their confiscation. That confiscation is even now in progress. The system of leases will accelerate it, but it will be accomplished without them.

Deal liberally with the squatters. Give them the most ample compensation—give them the land for nothing till it is wanted for purchase—comply with all their reasonable, nay, with many of their unreasonable demands. Their present views of aggrandizement have been forced on them by the folly of the Home Government—not originated by themselves. They are a great and a growing interest, producing the main export of the colony—respectable for their numbers, their intelligence, and their wealth. But we ought never to forget, that if we give over to them this territory, we are giving away what is not our own. We are trustees for posterity.

Some people will say, that any effort to prevent these orders from coming into force is premature; others, that it is too late. Let us not be turned aside by either of them. In every great crisis there are always some who cannot see it when it is really come, and others who imagine it past before it is arrived. It is not premature to agitate this question, because the proposed Orders in Council have already arrived among us—not to enable the colonists to deliberate, but the Governor to act. It is not too late to agitate this question till the country has been divided into districts—till leases have been executed, and vested interests created. Then, indeed, but not till then, it will be time to despair.

Others will say, we cannot obtain a reduction of the minimum price from the Home Government, and if the squatters must hold under a lease or a license, a lease is preferable. But I say we ought never to surrender our hopes, or remit our exertions, as regards the reduction of the minimum price, till the Home Government have placed it out of their power to reduce it, and this they will not have done till the leases to the squatters are actually granted. Till then, we ought to be unintermitting in our exertions. As long as the squatters hold under license merely, it is possible to reduce the minimum price; and for this reason, if for no other, license is preferable to lease. Our obvious duty, therefore, is by public meetings, by petitions, by every constitutional means in our power, to press upon the Home Government the suspension of these orders, and the repeal of Lord Stanley's Act, and the Act under which they were made—not as a measure of abstract policy, but of urgent and immediate necessity—not because Lord Stanley's Act has dispersed our population—ruined our land fund—driven away capital, and checked immigration; but because this Act, in addition to these minor grievances, is about to wrench from us for ever, the possession of our own territory, and give it over to men who have no right to it whatever, and who will neither develope its resources themselves, nor enable others to do so.

No. 2.

Answered Feb. 27, 1848, page 130.

(No. 137.) No. 2.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, July 5, 1847.

MY LORD, (*Received October* 27, 1847.)

For Lord Grey's Despatch, No. 68, 29 *November*, 1846, *vide Papers relative to New South Wales, ordered by the House of Commons to be printed, March* 31, 1847, *No.* 252, *page* 1.

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 68, of the 29th November last, expressive of the general views of Her Majesty's Government in regard to the administration of the waste lands of the Crown in this colony, and enclosing a copy of the proposed rules to be established by Her Majesty in Council for the occupation of the same, in pursuance of the Act of Parliament 9 and 10 Victoria, cap. 104.

I took an early opportunity of laying the Despatch and its Enclosures before my Executive Council, with a view to obtain their advice as to the measures which it might be desirable to adopt in order to bring the Regulations into operation with as little delay as possible after it shall be notified to this Government that they have received Her Majesty's final sanction. I have the honour to enclose, for your Lordship's information, a copy of the proceedings of the Executive Council which have accordingly taken place on the subject.

June 8 & 15, 1847.

With Enclosures.

In the course of those proceedings a doubt was suggested whether Her Majesty in Council could, consistently with the 10th section of the Act of Parliament 9 and 10 Victoria, cap. 104, delegate to the Governor the power contemplated by the first chapter of the proposed rules; and the opinion of the

law officers of my Government was taken on the subject. From that opinion, of which a copy is appended to the proceedings of the Council, your Lordship will perceive that, although the law officers do not themselves entertain the doubt which has been raised, yet, considering the importance of the question to the titles of those who may acquire leases under the expected Order in Council, they recommend that the subject should be brought under your Lordship's consideration, in order that measures may be taken for remedying the defect in the Act of Parliament and the rules, should any such appear to your Lordship to exist.

Acting under the law officers' opinion that it will be my duty to carry into effect the provisions of the Rule in question, should it become part of the contemplated Order in Council, and thus acquire "the force and effect of law in "the Colony," I shall proceed unhesitatingly to discharge the functions imposed upon me by it; but I think it advisable without delay to direct your Lordship's attention to the doubt which has been raised, in order that, if it be not groundlessly entertained, the remedies suggested by the law officers may be at once applied.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Enclosure in No. 2.

Encl. in No. 2.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 8th and 15th June, 1847, relative to the proposed Rules on the occupation of Crown Lands, transmitted with Earl Grey's Despatch of the 29th November, 1846, No. 68.

Extract from Minute, No. 47/10, dated 8th June, 1847.

Members present:—

His Excellency the Governor.	The Honourable the Colonial Secretary.
His Excellency the Commander of the Forces.	The Honourable the Attorney-General.
	The Honourable the Colonial Treasurer.

His Excellency the Governor laid before the Council a Despatch from the Secretary of State, transmitting a draft of the regulations proposed to be established by order of the Queen in Council, under the provisions of the statute 9 and 10 Vic., cap. 104. November 29, 1846. No. 68.

These documents having been circulated amongst the members, they were aware that the proposed regulations had not been finally determined upon, but that they had been forwarded for the purpose of enabling his Excellency, as stated in the concluding paragraph of Lord Grey's Despatch, "to consider at once in what manner it would be best to proceed in performing the duty which it was in contemplation to impose upon him of classifying the lands of the colony, and defining the boundaries of the different districts which will require to be determined," and thus "to obviate all unnecessary delay in bringing the regulations into operation, in case they should be sanctioned by Her Majesty." In order to obtain the advice of the Council on the matters thus submitted to his consideration, his Excellency laid the papers before them.

The Council accordingly proceeded to deliberate on the preliminary measures which it would be advisable for the Government to take.

A doubt having been suggested whether Her Majesty in Council could legally delegate to the Governor the power of dividing the colony into districts, as proposed in the first chapter of the contemplated rules, the Council advised that the following case should be submitted to the Crown Law Officers for their opinion:—

The sixth section of the statute 9 and 10 Vic., cap. 104, empowers Her Majesty, by Order in Council, to make rules and regulations respecting, amongst other matters, "the division of the colony into districts within which alone any demises or leases," granted under the said statute, "may be made to take effect." By the tenth section of the same statute, it is enacted, "That it shall and may be lawful for Her Majesty, by any such Order in Council as aforesaid, to delegate to the Governor (on such conditions as Her Majesty shall see fit to impose) all or any of the powers hereby vested in Her Majesty, save only so far as respects the powers so to be exercised by Her Majesty as aforesaid, by and with the advice of Her Privy Council."

A copy of the draft of the regulations, which it is proposed to establish by Order in Council, under the provisions of the above-mentioned statute, has been forwarded by the Secretary of State to the Governor. Of these proposed regulations the following is the first clause:—

"The lands in the colony of New South Wales shall, for the purposes of the present order, be dealt with in three classes, accordingly as they may be situated in districts to be denominated respectively as the unsettled, intermediate, and settled districts, and the Governor is hereby authorized and required to establish in the colony, or in the different parts of the colony, so many districts of each kind as he may judge necessary for the purpose of duly distinguishing lands which ought to come respectively under one or other of the classes aforesaid; and he is further authorized and required to determine, according to the best of his judgment, and to declare by proclamation the boundaries of such districts, designating them respectively as being,

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for the purposes of the present order, unsettled, intermediate, or settled districts, as the case may be."

The opinion of the Attorney and Solicitor-General is desired on the following questions:—

1. "The division of the colony into districts" being expressly mentioned in the Act 9 and 10 Vic., No. 104, sec. 6, as one of the matters respecting which Her Majesty is empowered to make rules and regulations, by Orders in Council, can Her Majesty in Council, consistently with the reservation made in the 10th section of the same Act, delegate to the Governor the powers proposed in the section of the draft regulations above recited.

2. Assuming that the division of the colony into districts, for the purposes mentioned in the Act 9 and 10 Vic., No. 104, cannot be legally effected otherwise than by Order of the Queen in Council, could it be maintained that in directing generally that the lands of the colony should be divided into three classes, Her Majesty in Council had done enough to satisfy the requirements of the said Act, and that the power to determine what portions of land should be comprised within those three classes respectively could be delegated to the Governor.

The Council then advised that the evidence of the Deputy Surveyor-General should be taken by them respecting the extent of information possessed by his department relative to the lands beyond the boundaries, and on other matters connected with the division and survey of the lands for the purposes of the regulations about to be established. His Excellency thereupon directed the clerk to request the attendance of the Deputy Surveyor-General on Tuesday, the 15th June instant, at 12 o'clock.

The Council further advised that so soon as they should be in possession of the law officers' opinion, and of the information which the evidence of the Deputy Surveyor-General would afford, a letter should be addressed to the superintendent of Port Phillip, requesting his opinion as to the arrangements which would be most desirable in respect to the lands of that district, and that a circular should be sent to the several Commissioners of Crown Lands beyond the boundaries, directing their attention to the provisions of the proposed rules, and desiring them to collect such information, and to take such preliminary steps as may tend to expedite the general classification of the lands and the determination of the boundaries of individual runs with a view to the issue of leases.

Extract from Minute, No. 47/11, dated 15th June, 1847.

Members present as above.

Appendix No. 1.

His Excellency the Governor laid before the Council the opinion of the Attorney and Solicitor-General on the case proposed at their meeting on the 8th June instant.

The Attorney and Solicitor-General advised that the question which had been referred to them should be brought under the notice of the Secretary of State, with a view to the removal of all doubt on a matter so materially concerning the titles of leaseholders under the system about to be adopted. Their own opinion, however, was, that the Queen in Council having passed rules and regulations respecting the division of the colony into districts, could impose upon the Governor the duty of classifying the lands in the manner proposed by the first clause of the draft rules; and they distinctly stated that in the event of that clause becoming part of the contemplated order, and thus obtaining "the force and effect of law in the colony," the Governor would have no alternative but to discharge the functions imposed upon him by it.

Minutes of Evidence.

The Deputy Surveyor-General, being in attendance pursuant to the summons issued under the Order given by the Governor and Council on the 8th instant, was then called in and examined.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

Appendix No. 1.

APPENDIX No. 1.

OPINION of the ATTORNEY and SOLICITOR-GENERAL on the CASE stated in the MINUTE of 8th June.

1. We are of opinion that Her Majesty in Council can consistently, with the reservation made in the 10th section of the Act of Parliament, delegate to the Governor the power proposed in the first section of the draft regulations of the Privy Council. The only part of the sixth section which it is necessary to consider with reference to this point, is that which provides that Her Majesty in Council shall make "rules and regulations for the division of the colony into districts," and the question is whether in the draft regulations it is proposed to delegate to the Governor the power to make such "rules and regulations."

We think that the sixth clause is not to be read as if it had been required that the Queen in Council should herself make the division of the colony into districts; and that the first clause of the draft referred to does, in fact, make and establish "a rule and regulation respecting the division of the colony into districts," and must be taken rather as imposing upon the Governor the duty of making an actual division in obedience to it, then as a delegation of a power vested only in Her Majesty in Council.

2. We cannot see that it belongs to the Governor of the colony to inquire whether, by directing the division of the lands of the colony into three classes, enough has been done by Her Majesty in Council to satisfy the requirements of the Act. It is presumeable that the framers of the Act, namely, Her Majesty's Ministers, who also prepared the draft regulations, did not intend that more should be done in the Privy Council; but possibly the Legislature may be taken, from the language used, to have contemplated something more.

This question, however, we think it unnecessary to discuss, because it is clear to us that the first clause in the draft does amount to a proposed "rule and regulation respecting the division of the

colony into districts," which, if passed, will have "the force and effect of law in the colony," and that the Governor will have no alternative but to discharge the functions imposed upon him by it, but will be bound by it to precisely the same extent as if the Act of Parliament itself had contained an enactment in the same words.

As, however, it may be considered that the Imperial Legislature intended that Her Majesty in Council should, in the rules and regulations respecting the division of the waste lands of the colony, at least establish some principle for the guidance of the Governor which should be more definitely laid down than is done by the mere use of the names of "settled," "intermediate," and "unsettled" districts, and not leave the creation of districts to the undirected discretion of the Governor, or to the instructions of Her Majesty's Ministers; and as the questions which have arisen may hereafter prove of great importance to the titles of the intended leaseholders, we beg leave to recommend that the subject be brought under the notice of the Secretary of State for the Colonies, by whom measures may be taken for remedying the defect in the Act of Parliament and rules and regulations, if any such should appear to his Lordship to exist.

We anticipate that so much time will be occupied in the requisite surveys, and other preliminary matters, before the establishment of districts, as to make it far from improbable that a reference of the questions to the Home Government, as we suggest, will occasion no delay in bringing the expected system of leases and licences into operation.

(Signed) John H. Plunkett, Attorney-General.
W. M. Manning, Solicitor-General.

July 15, 1847.

Appendix No. 2.

Evidence of the Deputy Surveyor-General, with Explanatory Notes added by him.

Samuel Augustus Perry, Esq., Deputy Surveyor-General, called in and examined.

1. You hold the office of Deputy Surveyor-General in this colony?—I do.
2. You have now the charge of the department in the absence of the Surveyor-General?—I have.
3. A copy of Earl Grey's Despatch of the 29th November, 1846, with the draft therein enclosed of the proposed rules on the occupation of Crown lands in New South Wales has been furnished to you?—Yes.
4. Do you consider that the information contained in the records of your office is sufficient to enable the Government to carry out those propose rules?—It is sufficient, I think, for the general purposes of the rules, but not to enable the Government to define the boundaries of runs.
5. You think that it is sufficient to enable the Government to classify the lands in the manner contemplated by the proposed rules?—Yes.
6. And to define the boundaries of the several classes with accuracy?—Not with accuracy, because the lands are not all surveyed. Certain points have been taken throughout the country, and have been arranged with a view to the definition of boundaries, but there has not been a complete survey.
7. Of what portion of the colony do you possess on accurate survey?—Of the whole of the 20 counties proclaimed previously to the year 1839, and of five new counties, viz., Stanley and Auckland, in the Sydney district; and Bourke, Grant, and Normanby, in the Port Phillip district, which have been surveyed with sufficient precision to enable them to be proclaimed.
8. Have these counties been considered within the boundaries?—The whole of them.
9. Then they would naturally come within the class of settled lands?—Yes, the whole of the 25 counties would.
10. Are there any portions of the country taken up by squatters of which you possess a survey?—Yes; we have a complete survey of nearly the whole of the country about the Clarance River, that is, the country between Port Macquarie and Moreton Bay.
11. To what distance from the coast does the survey extend?—Not less at any point than about 40 miles in a straight line.
12. Are there any other portions of the colony which have been accurately surveyed?—A great deal of the country which is occupied by squatting stations is under survey. The intermediate country between the Clarence River and Moreton Bay, and between the Clarence River and Port Macquarie, that is the whole line of sea coast, with the exception of the county of Stanley, is beyond the boundaries of location.
13. Is the survey sufficiently in detail to enable you to lay down the principal lines of thoroughfare and sites of town?—Yes; and to proclaim the counties provisionally, but the boundaries are not surveyed in detail.
14. Have you any survey of the country lying to the westward of the 20 counties in the middle district?—We have sketches made by Commissioners and amateurs, but no surveys by the officers of the department.
15. Have points been laid down trigometrically?—Sufficient points to enable the whole of the regulations to be carried out with the exception of unsettled lands in which only a few great lines have been traced by exploring expeditions, such as the course of the Darling, the Murray, and some other principal features.
16. Have you any survey of the lands to the southward of the 20 counties?—We have a survey in progress, which is being carried on by a very able officer, Mr. Townshend, but is not yet complete. Mr. Townshend is now upon the Snowy Mountains.
17 How far does that survey extend from the coast?—About 120 miles.
18. Is that country also occupied by squatters?—Yes, the whole of it.
19. And has been for some years?—Yes, I believe so.
20. Proceeding further to the southward, what survey do you possess of the country to the south of Auckland?—We have points fixed all the way from thence to the meridian of 141° of east longitude, and three counties, which are now partially occupied by squatters, viz., Grant, Bourke, and Normanby are ready for proclamation.
21. And of Gipps Land, what survey have you?—Gipps Land is partially surveyed, and it is unoccupied.

NEW SOUTH WALES.

22. Is there not an accurate survey of Gipps Land by Mr. Tyers, who is a very competent surveyor?—The survey is only a partial one. It is not complete.

23. Does it contain the leading features?—It contains one or two rivers, and a range and a few other points fixed trigonometrically.

24. Is that survey connected with the general trigonometrical survey of the colony?—Yes; it is connected with the Port Phillip survey.

25. There is a large portion of the country now occupied by squatters of which you know nothing?—We possess information which is called a survey, but we have no accurate survey; we have rough sketches by Commissioners and amateurs, which, although containing much very useful information, cannot be relied on as accurate surveys.

26. They would be found defective in the marking of the boundaries?—Yes, they can only be taken as guides in respect to the general features; so far they have been compared with our surveys for the purposes of general information.

27. Do you consider that it will be impossible to classify the lands without an accurate survey?—I think it very possible to classify them by previously proclaiming counties along the coast, for which we have sufficient information.

28. To what extent do you possess that information; have you any regular survey?—The survey, as I said before, is but partial, but I believe that a general description of each county, with a view to provisional proclamation, was furnished to the Government by Sir Thomas Mitchell prior to his proceeding on his last expedition, and that of such descriptions there are copies in the office.

29. These counties would only embrace about a fourth part of the country occupied by squatters?—Thereabouts.

30. Of three-fourths of the whole of the country at present occupied by licensed squatters you possess no survey, with the exception of such parts as have been casually laid down in the course of exploring expeditions?—No other.

31. Have the Commissioners and amateurs to whom you have alluded sufficient knowledge to be trusted?—Some of them have.

32. Are they surveyors by profession?—Mr. Tyers is a surveyor, and so is Mr. Wright and Mr. Commissioner Mitchell.

33. If it were proposed that the boundaries of intermediate districts should be fixed at any given distance from counties or reputed counties, is there any possibility of fixing those boundaries without an actual survey of them on the spot?—Certainly not.

34. What time and what force would be required for such a survey?—If the whole of the present strength of the department were employed upon it, it would take at least 12 months. I am speaking with reference merely to the fixing on a line as a boundary for an intermediate district at a given distance from what are now called the settled district.

35. No portion of the establishment could then be left to mark the boundaries of runs?—To do that would require a department of five times the strength.

36. Within what period could the present runs be surveyed in such a way as to admit of a technical description of their boundaries being given in the leases?—I do not think that with any strength they could be so surveyed in a less time than three years.

37. Do you consider that there are a sufficient number of qualified surveyors in the colony to admit of the strength of your department being increased five fold?—Yes, I do, but I doubt whether a sufficiency of labourers could be obtained; very strong parties would be required. In giving this reply I am by no means diverging from the question, because it is absolutely necessary that each surveyor should have a party sufficient to clear away obstructions to his vision of distant objects.

38. What is the present expense of your department?—It is within 12,000*l.* per annum.

39. What would be the additional expense if the department were increased to the extent which you have just mentioned?—The expense would not be less than three times its present amount, if the department were to be so increased for the purpose of defining the boundaries of individual runs.

40. Would the survey requisite for the marking of the boundaries of individual runs be in addition to the general trigonometrical survey?—No, the two must go on simultaneously.

41. You were understood to say that you were sufficiently informed to lay down general lines of thoroughfare and sites of towns in all the country at present occupied by licensed squatters?—Yes, I am sufficiently informed so to do.

42. Have you the maps which were some time since transmitted to the Government by the Surveyor-General, with a proposal that a considerable portion of the lands now occupied by squatters should be divided into and proclaimed as counties as therein shown?—Yes, I have them here. (*Witness produced the maps to the Council, and also a rough sketch, showing the proposed new counties on a smaller scale.*)

42* Supposing that the proposed counties shown in these maps were made intermediate lands under the Regulations, do you consider that there would be any difficulty in proclaiming the boundaries of them?—There would be no difficulty in proclaiming them as counties provisionally.

43. What is the number of these proposed new counties?—I think there are 50 shown on the plan.

44. What is the average area of these proposed counties?—About 40 miles square.

45. In stating the number of counties to be 50, you mean that there are 50 in addition to the 25 already proclaimed?—Yes.

46. On a rough estimate, what number of acres do you think would be included in those 50 counties?—About 45,000,000 of acres in round numbers.

47. Do you consider that this quantity of land would be sufficient to satisfy the demands for purchase during the next 14 years?—That will depend much on the amount of immigration; but I consider that it would be much more than sufficient.

48. Do you consider that the lands which are situated more inland than these counties would be likely to be required for purchase within the next 14 years?—No; I do not.

49. But if the country which formed the colony of North Australia were re-united to this portion of New South Wales, there would be lands there likely to be required for purchase?—No doubt of it; a great quantity of land could be sold there. I have reason to believe that a seaport would be opened immediately.

50. There are lands, then, in that portion of the country which should be included among the settled districts in the event of their re-annexation to this territory?—Yes; such arrangement would be desirable.

51. Are you prepared to recommend any particular system of surveying the runs with a view to expedition?—The object can only be effected by a regular trigonometrical and chain survey. I know of no shorter method.

52. Is there any work which could at once be undertaken which would facilitate the early survey of the land?—I know no other mode than that of tracing the general features.

53. A preliminary survey would be necessary to ascertain the general features?—Yes; but it might be carried on simultaneously with the detailed survey. Points must first be fixed, and by some of those points boundaries of runs as well as of districts would be defined.

54. Do you not consider that the survey of runs would be hastened by taking the feature surveys first?—I do not think so, because the survey of runs would fall into that of the features.

55. Would it be necessary to fix points trigonometrically in addition to those which you now have?—It would be necessary to fix points trigonometrically, and to trace rivers and ranges; because the survey is incomplete.

56. Would it not be a saving of time to do this at once?—You would still have to go over the survey of the runs. I do not think that any time would be saved, although such a course might be otherwise convenient.

57. Would it be attended with increased expense?—No.

58. Were private parties to employ private surveyors to define the boundaries of their runs, would the business be expedited?—Unquestionably. In such case our Department would furnish the private surveyors with principal points, and they would supply the details. They must, however, be under the supervision of the Government Department.

59. Would the Government Department be able to exercise sufficient supervision?—Yes, sufficient to ensure reasonable accuracy.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

EXPLANATORY NOTES appended to my Evidence of 15th June, 1847, before the Executive Council, respecting the Proposed Rules on the occupation of Crown Lands in New South Wales, which were enclosed in the Secretary of State's Despatch of the 29th November, 1846, No. 68.

MY answer to question No. 17 is, that the survey of the lands to the southward of the 20 proclaimed counties extends 120 miles from the coast. In saying this I did not mean that there was a continuous and connected survey from the coast 120 miles inland at the point referred to, but that the field of Mr. Townshend's operations was that distance, some portions of the intervening features having also been surveyed. The same remark may apply to all except the proclaimed counties.

My reply to question No. 32 is that there is not any possibility of fixing the boundaries of intermediate districts at any given distance from counties or reputed counties without an actual survey of them on the spot. The surprise that my reply appeared to excite in the Council induces me to offer an explanation. The boundaries of counties or reputed counties are not meridians nor parallels of latitude, but they are irregular lines, either along the crests of mountain ranges, or are determined by the courses of rivers; in both cases extremely tortuous, and, therefore, neither latitudinal differences nor distances from the meridian would settle the point. In such case the required distances must be determined by actual geodesical operations whether conducted by the aid of a common chain, by triangulation, or by whatever process. As to any imaginary short cut by celestial observations, I am supported by the best authorities in denying its efficacy:—

"On a proposé diverses méthodes pour tracer le parallèle de Paris, en choisissant des points, qui auraient la même latitude, et mèsurant la distance de ces points, ou de ces lignes, que l'on pourroit régarder commes les côtés infiniment petits de la courte, qui forme la projection du parallèle; telle étoit l'idée de la méthode proposée par M. Godin, dont l'exécution étoit presque impossible et sujette aux plus grandes erreurs. En effet, on ne pouvoit s'assurer que deux lieux étoient situés sur la même latitude, que par les observations astronomiques, qui supposent de grands instrumens lorsqu'il s'agit d'une précision de quelques secondes; ce ne pouvoit être qu'en tatonnant et multipliant les observations que l'on parviendroit au point cherché, en s'exposant à une erreur de 15″ dans le ciel, qui repondent à plus de deux cent toises sur la terre; la détermination d'un seul point auroit été l'ouvrage d'un mois, temps nécessaire pour multiplier les observations, pour la construction des observatoires, pour loger l'observateur obligé de passer des nuits pour attendre le moment des observations."

Another author says (a century subsequently to the above),

"Les erreurs du calcul étoient pour l'ordinaire fort inférieures à celle de l'observation, et l'on a en raison de ne pas affecter une exactitude qui n'eût été qu'illusoire."

Even Mr. Tyers, whose name is mentioned in the course of the examination, refers to the chain survey of Mr. Townshend in determining an approximate meridian (see his pamphlet); but it is unnecessary to multiply authorities upon this point, seeing that there is but one route to follow.

My answers to questions from 33 to 36 all refer to the time and the means requisite to complete a survey sufficiently detailed to mark the boundaries of runs; and as I felt some doubt whether I was justified in appearing to the Council to oppose an obstacle in the way of carrying into effect a most important measure of Government, I consulted my authorities even on this point. The result may almost be comprised in the words of an address to Louis XV. upon a similar subject:—

"SIRE,—L'ouvrage que j'ai l'honneur de presenter à votre Majesté est d'autant plus digne de paroître sans ses auspices, qu'il est le fruit de votre protection et de celle de vos ancêtres.

"Je ne devois pas espèrer de voir la fin d'un entreprise dont l'exécution devoit durer un demi-siècle," etc.

Again:—

"La plus longue vie d'un calculateur exercé ne suffiroit pas pour calculer plus de quarante mille triangles. sans y comprendre tous les objets désignés sur les cartes, je parle seulement de paroisses," etc. etc.

As the Council seemed to be startled at my reply to question 38, as to the expense that would be incurred in the surveys required, I must beg leave to trouble them with one more extract on this point.

NEW SOUTH WALES.

"Elle (Sa Majesté) m'ordonna d'en former le projet, de le presenter à M. de Machault, et me chargea de l'exécuter.

"Je trouvai dans ce Ministre les dispositions les plus favorables, mon projét étoit le même que celui dont j'ai déjà parlé. M. de Machault bien loin d'être effrayé de la dépense annuelle de quarante mille livres, me proposa de l'augmenter, pour abréger le temps de l'exécution qu'il prévoyoit trop long dans la place qu'il occupoit:" and I may here mention that Lieut. Mitchell, now Sir Thomas Mitchell, one of the most rapid and persevering military surveyors of the British army, was occupied, I think, six years in making surveys of Massena's retreat and of the lines of Torres Vedras.

51 and 52. I stated in reply to questions 51 and 52, that I knew of no other method of surveying the runs with a view to expedition than that of regular trigonometrical and chain survey; but the system I would beg leave to recommend to effect this object is to allot to each of the experienced field surveyors of this department, say of not less than 10 years' service, a district, and attach to each a certain number of assistants and aspirants, and which would have the effect of keeping the expense within reasonable bounds. Each head of a district should be a full surveyor with one assistant, to be selected, as far as possible, from the junior members of the department, and three aspirants or cadets—youths of good abilities and docility of disposition, who should receive little more than nominal pay, until they were sufficiently qualified to act independently of instruction. I shall have the honour to submit the proposal in detail: but I may merely observe that by such an arrangement the expenses, even including a slight augmentation at head quarters, will be within three times the amount of the present expenditure of this department.

(Signed) S. A. Perry,
Deputy Surveyor-General.

June 18, 1847.

No. 3. (No. 224.) No. 3.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey

Government House, Sydney,
November 9th, 1847.
(*Received March* 4, 1848.)

My Lord,

For Lord Grey's Despatch, 30 March, No. 120, vide Papers relative to New South Wales, ordered by the House of Commons to be printed 31 March, 1847, No. 252, p. 7.

Immediately on the receipt of your Lordship's Despatch, No. 120, of the 30th March last, transmitting to me Her Majesty's Order in Council for establishing regulations relative to the occupation of waste lands in this colony, I submitted that Despatch and its Enclosure to my Executive Council, in order that, in performing the duty imposed upon me of carrying out the details of these regulations, I might have the benefit of the advice of that Board in bringing them into operation in as perfect a shape and with as little delay as possible.

I regret that it is not in my power to put your Lordship in possession, by the packet which will sail this day, of the result of our deliberations, (which, I assure your Lordship, have been carried on under a most anxious desire to give the fullest effect to the intentions of Her Majesty's Government) but I hope to be able to report most fully to your Lordship on the subject by another vessel in the course of a few days.

No. 87. N. S. W. Gazette, 7 October, 1847. In the meantime I avail myself of this opportunity of forwarding to your Lordship a copy of the New South Wales Government Gazette of the 7th ultimo, containing my proclamation publishing Her Majesty's Order in Council, and the notice which I caused to be issued with reference to this proclamation respecting the leases of Crown lands beyond the settled districts.

In requesting your Lordship to accept my thanks for relieving me from the invidious duty of defining the lands to be classified as "unsettled" and "intermediate," it may be gratifying to your Lordship to learn that no practical difficulty has been experienced in giving effect to Her Majesty's Order in Council.

I have, &c.

The Right Hon. Earl Grey. (Signed) C. A. FITZROY.
&c. &c. &c.

Encl. in No. 3.

Enclosure in No. 3.

Proclamation

By His Excellency Sir Charles Augustus FitzRoy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c., &c.

I, Sir Charles Augustus FitzRoy, the Governor aforesaid, do, by this my Proclamation, publicly notify and declare that Her Most Gracious Majesty the Queen has been pleased, by the Order in Council hereto annexed, to make and establish the Rules and Regulations therein contained, for regulating the occupation of the Waste Lands of the Crown in the Colony of New South Wales; and I do hereby notify and proclaim, that such Rules and

Regulations shall and will come into effect within the said Colony, on and from the date of this my Proclamation thereof. NEW SOUTH WALES.

Given under my hand and seal, at Government House, Sydney, this Seventh day of October, in the year of Our Lord One thousand eight hundred and forty-seven, and in the Eleventh year of Her Majesty's reign.

(L. S.) CHAS. A. FITZROY.

By His Excellency's Command,
E. DEAS THOMSON.

GOD SAVE THE QUEEN.

(No. 238.) No. 4. No. 4.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY. Answered May 24, 1848, p. 132.

Government House, Sydney,
MY LORD, December 6, 1847.

(*Received May* 9, 1848.)

IN your Despatch of the 30th March, 1847, No. 120, transmitting Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in this colony, your Lordship expresses great anxiety that no undue extension should be given to the lands to be defined as unsettled, and which would thus be put out of the power of the Crown, and rendered unavailable to the public for the long period of 14 years. *For Lord Grey's Despatch, 30 March, No. 120, vide Papers relative to New South Wales, ordered by the House of Commons to be printed 31 March 1847, No. 252, p. 7.*

I am, I conclude, right in assuming that it was owing to this anxiety on the part of your Lordship that the respective boundaries of the unsettled and intermediate districts were not definitively fixed by the Order in Council, but that they were left subject to alteration at any time before the end of the year 1848 by the proclamation of new counties, which will have the effect of adding the lands comprised in such counties to the intermediate class. Order in Council, Chap I. sec. 3.

The manner in which I should best fulfil my portion of the duty which this important power of extending the intermediate districts involves has engaged my most serious attention, and I now proceed to report to your Lordship the course which, with the advice of my Executive Council, I have deemed it most proper to adopt.

Having learned from the Deputy Surveyor-General of this colony that a considerable number of proposed new counties had been for some time marked on the charts of his office, I called upon him to report, with respect to such of those counties as are situated in the Middle or Sydney district, which of them could be described before the end of the year 1848 in such manner as, I have been advised by the law officers of my Government, will be sufficient to admit of their being proclaimed for the purpose of bringing them within the class of intermediate lands, under the terms of sec. 3 of chap. 1, of the Order in Council. From the superintendent of Port Phillip I requested a similar report in respect to such of the proposed counties as lie within that district.

The information furnished by those officers enables me to report that, besides those undetermined counties which are already included in settled or intermediate districts, there are 28 new counties, 15 of which are situated in the Middle and 13 in the Port Phillip district, which can be proclaimed before the end of the ensuing year without any considerable exertion or expense. I have accordingly directed that measures should be taken to ensure the completion of the requisite descriptions of the respective boundaries of those counties in sufficient time to admit of their being proclaimed on or before the 31st December, 1848.

I shall not of course feel myself at liberty to proclaim these counties, or any of them, without the express sanction of Her Majesty's Government; but neither does it appear to me consistent with the objects which induced your Lordship to relieve me from the duty of defining the lands to be classified as unsettled and intermediate, that I should make any specific recommendation as to the extent to which the already fixed intermediate districts should be enlarged. Having reported, therefore, that the requisite descriptions of the boundaries will be ready within the time allowed by the Order in Council, I beg to refer your Lordship to the accompanying maps, showing the respective positions of the counties in question, and to request that I may be favoured with your Lordship's instructions as to whether all, or any of them, shall be proclaimed. Maps 1 and 2, appended to the proceedings of the Executive Council herewith.

NEW SOUTH WALES.

The names by which the counties are distinguished in the maps are as follows, viz.:—

Middle District.

1. Ward.
2. Rous.
3. Richmond.
4. Clarence.
5. Raleigh.
6. Dudley.
7. Vernon.
8. Hawes.
9. Parry.
10. Buckland.
11. Buccleugh.
12. Cowley.
13. Beresford.
14. Wallace.
15. Wellesley.

Port Phillip.

1. Follett.
2. Dundas.
3. Villiers.
4. Ripon.
5. Hampden.
6. Heytesbury.
7. Polworth.
8. Granville.
9. Talbot.
10. Dalhousie.
11. Anglesey.
12. Evelyn.
13. Mornington.

These names, however, are merely provisional, their ultimate adoption being dependent on your Lordship's approval.

Executive Council Minutes, with Appendix.

In the Appendix to the Minutes of Proceedings of the Executive Council, of which I enclose copies, will be found the correspondence which has passed on the subject of the proposed counties, including the reports from the Deputy Surveyor-General and the Superintendent of Port Phillip, to which I have above referred; and I would beg to direct your Lordship's attention particularly to two letters, the one from Mr. James Atkinson, and the other from Mr. William Rutledge, respecting the proclamation of a new county in the neighbourhood of Port Fairy, in the situation, that is, of the proposed county of "Villiers," in the district of Port Phillip.

Papers 13 and 14, appended to proceedings of the Executive Council.

Maps No. 2, appended to Council proceedings.

On the further request contained in these letters that a certain portion of the country about Port Fairy may be declared a settled district I shall address your Lordship in another Despatch.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. in No. 4.

Enclosure in No. 4.

PROCEEDINGS of the EXECUTIVE COUNCIL, relative to the Proclamation of New Counties, with a view to their being included in the class of Intermediate Lands under the provisions of the 3rd section of chapter I. of Her Majesty's Order in Council of the 9th March, 1847, respecting the Occupation of Crown Lands in New South Wales.

Extract from Minute, No. 47/15, *dated 2nd August,* 1847.

Members present:—

His Excellency the Governor.
His Excellency the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

Paper No. 1 appended.

The Clerk of the Council was ordered to ascertain from the Deputy Surveyor-General which of the proposed new counties referred to in that officer's evidence before the Council can be finally proclaimed, either immediately or before the end of the year 1848; and that he should also obtain from the Deputy Surveyor-General a precise explanation of the difference between the topographical information requisite for the "final" proclamation of counties, and that upon which the Government is enabled to proclaim them "provisionally," and of the extent of alteration to which the boundaries of provisionally-proclaimed counties are liable previously to their "final" proclamation; so that a case may be prepared on which the opinion of the Crown law officers may be obtained as to whether the merely provisional proclamation of the boundaries of a county would be sufficient to bring such county within the class of intermediate lands, under the third section of the first chapter of the Order in Council.

Extract from Minute, No. 47/17, *dated 27th August,* 1847.

Members present as above.

Papers 3 and 5 appended.

With reference to the proceedings on the 2nd August last, his Excellency the Governor laid before the Council two letters from the Deputy Surveyor-General, supplying the information

called for by the Council respecting the proclamation of the proposed new counties, with a view to their being included in the class of intermediate lands.

In the first letter the Deputy Surveyor-General stated, that of the proposed new counties referred to in his evidence before the Council, 17 could be at once finally proclaimed, but that of the remaining 26, some he found on examination could not be even provisionally proclaimed. He also explained the difference between the topographical information necessary for the "final" proclamation of counties, and that on which the Government was enabled to proclaim them "provisionally."

In the second letter were stated the counties which could be provisionally proclaimed.

Observing that amongst those of the proposed new counties which were not ready either for final or provisional proclamation there were three in the northern and one on the southern part of the colony, which lay on the sea coast, and were not within the portions of the intermediate districts which had been already fixed by the terms of the Order in Council, the Council inquired of the Deputy Surveyor-General, who was in attendance, whether those counties might not be ready for proclamation before the end of the year 1848. The Deputy Surveyor-General replied, that he had no doubt they could be proclaimed provisionally, if not finally, before that time.

The Governor and Council then directed that the clerk should forward the Deputy Surveyor-General's letter to the law officers; and with reference to the explanation given of the nature of the topographical information on which counties could be provisionally proclaimed, that he should ask their opinion whether counties so proclaimed before the end of the year 1848 would be legally included in the class of intermediate lands, under the provisions of the 3rd section of chapter 1 of the Order in Council.

Extract from Minute, No. 47/19, dated 5th October, 1847.

Members present as above.

With reference to the proceedings on the 27th August last, his Excellency the Governor laid before the Council a letter from the Attorney and Solicitor-General, stating their opinion as to the nature of the description of the boundaries of new counties which would be sufficient to admit of such counties being proclaimed, with a view to their being brought within the class of intermediate lands under the 3rd section of chapter 1 of Her Majesty's Order in Council. Paper No. 7 appended.

The Council advised that a copy of this letter should be sent to the Deputy Surveyor-General, with a request that he will state which of the proposed new counties in the Middle or Sydney district can be described in the manner deemed necessary by the Crown law officers before the end of the year 1848, so as to admit of their being proclaimed before that date, and thus brought within the class of intermediate lands; and that in respect to such counties as cannot be immediately described in the manner required, but may be so before the end of the year 1848, by means of further practicable surveys, the Deputy Surveyor-General should be requested to state, with reference to each of such counties respectively, the nature and extent of the further surveys required, the arrangements necessary for their accomplishment, and the estimated cost at which they can be performed.

The Council further advised that a similar communication should be addressed to the Superintendent of Port Phillip, with reference to the proposed new counties in that district; but that it should be pointed out to his Honour that it will not be necessary to obtain descriptions of any counties forming part of Gipps Land, the whole of Gipps Land having been included in the class of intermediate lands by the terms of the Order in Council.

His Excellency the Governor accordingly directed the clerk to apply to the Deputy Surveyor-General and the Superintendent of Port Phillip for the information desired.

Extract from Minute, No. 47/22, dated 28th October, 1847.

Members present as above.

With reference to the proceedings on the 5th October instant, when the Council advised that the Deputy Surveyor-General should be furnished with a copy of the Crown law officers' opinion respecting the nature of the descriptions which would be requisite for the proclamation of the boundaries of new counties, with a view to their being brought within the class of intermediate lands under the 3rd section of chapter 1 of Her Majesty's Order in Council of the 9th March, 1847; and that he should be requested to state which of the proposed new counties in the Middle or Sydney district could be described in the manner pointed out by the law officers before the end of the year 1848. His Excellency the Governor laid before the Council a letter from the Deputy Surveyor-General, with an accompanying map, from which it appeared that besides the county of Stanley, which is placed by the terms of the Order in Council within the class of "settled lands;" and the county of Auckland, and the so-called county of Dampier, between Auckland and St. Vincent, which are placed in the class of intermediate lands; there are 15 counties which can be made ready for proclamation before the end of the year 1848. Paper No. 9 appended. Map No. 1 appended.

The Council thereupon advised that the Deputy Surveyor-General should be instructed to complete the surveys necessary to enable him to submit the requisite descriptions of the boundaries of all the 15 counties named by him sufficiently early to admit of their being proclaimed before the end of the year 1848. These surveys the Deputy Surveyor-General stated in his letter and repeated verbally before the Council, could be executed by the officers employed on the feature surveys of the districts, and the Council accordingly recommended that they should be so performed.

The Council further advised that his Excellency should report to the Right Honourable the Secretary of State that measures will have been taken to prepare the requisite descriptions of

NEW SOUTH WALES.

Map No. 1 appended.

the boundaries of the 15 counties specified by the Deputy Surveyor-General, so as to admit of their being proclaimed before the end of the year 1848, and thus brought within the class of intermediate lands, under the 3rd section of chapter 1 of the Order in Council; and that his Excellency should ask for instructions from the Secretary of State as to whether he should so proclaim the said counties.

Extract from Minute, No. 47/27, *dated* 29*th November*, 1847.

Members present:—

His Excellency the Governor.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

Adverting to the proceedings on the 5th October last, when the Council advised a reference to the Superintendent of Port Phillip respecting the proposed new counties in that district, his Excellency the Governor laid before the Council the report which had been received from Mr. La Trobe in reply.

Paper No. 11 appended.

This report had been submitted to the perusal of the Deputy Surveyor-General, who was in attendance for the purpose of affording information respecting the modifications in the arrangement of the proposed counties which were suggested in Mr. La Trobe's report.

After hearing the explanations of the Deputy Surveyor-General, it appeared to the Council that no material alterations were proposed by Mr. La Trobe in respect to the nine counties described in the Surveyor-General's map by the undermentioned names, and that however their boundaries might be adjusted, they could be proclaimed before the end of the year 1848; viz.,

1. Follett.
2. Villiers.
3. Ripon.
4. Hampden.
5. Grenville.
6. Dalhousie.
7. Evelyn.
8. Anglesey.
9. Rodney.

The Council therefore advised that Mr. La Trobe should be requested to make, with as little delay as possible, a further report with reference to the comparative merits of the boundaries proposed for these counties by the Surveyor-General and himself, in so far as they differ, in order that the Governor may decide to which the preference shall be given, and may instruct Mr. La Trobe to prepare and forward descriptions accordingly. The Council, however, considered that the preparation of a description of the county of Rodney might be unnecessary, as Mr. La Trobe appeared to think it unadvisable that the land comprised in that proposed county should be included in the intermediate class.

The counties of Heytesbury and Polworth, as shown in the Surveyor-General's map, could not be united in one, as suggested by Mr. La Trobe, because their area would exceed the dimensions allowed by the Royal Instructions for a single county. The Council therefore advised that the Surveyor-General's plan should in this instance be adopted, subject of course to any modification in the details of the boundaries which the further information possessed by the Survey Office at Port Phillip may show to be desirable.

For the same reason as that above stated, the union of the proposed counties of Talbot, Bass, and Haddington cannot be sanctioned; but as the two last-named counties are within the limits of Gipps land, and therefore form part of an intermediate district already, their proclamation is unnecessary. The Council therefore advised that a single county in the position of "Talbot," as shown in the Surveyor-General's map, should be prepared for proclamation, to which the name of "Mornington" might be given, as proposed by Mr. La Trobe.

The Council could not advise any alteration in the already-described boundaries of the counties of Bourke, Normanby, and Grant, as such alteration, especially in the case of Bourke, would occasion much confusion and inconvenience.

To the two new counties proposed by Mr. La Trobe on the Wannon and the Loddon rivers there appeared to be no objection, and the Council advised that descriptions of them should be at once prepared. As, however, the name of "Polworth" would be still attached to the Cape Otway county, that name would not be available for the new county on the Loddon. The Council therefore suggested that it might receive the name of "Talbot," for which that of Mornington will be substituted in the Western Port county.

The proposed counties of Douro, Bruce, Abinger, Combermere, and Howe being all in Gipps Land, their proclamation is unnecessary, and descriptions of them need not therefore for the present be prepared.

Map No. 2 appended.

The Council then further advised that his Excellency should transmit to the Right Honourable the Secretary of State an outline map, showing the position of the undermentioned proposed counties, and should report that they will all be prepared for proclamation, in the manner deemed necessary by the law officers, before the end of the year 1848; and that his Excellency should ask his Lordship's instructions as to whether they should be so proclaimed.

1. Follett.
2. Dundas.
3. Villiers.
4. Ripon.
5. Hampden.
6. Heytesbury.
7. Polworth.
8. Granville.
9. Talbot.
10. Dalhousie.
11. Anglesey.
12. Evelyn.
13. Mornington.

The Council further expressed their opinion, that in making this communication to the Secretary of State, his Excellency should forward a copy of the passage in Mr. La Trobe's

letter of the 24th September, 1847, which refers to the proclamation of new counties, and also the letters from Mr. Rutledge and Mr. Atkinson, which were laid before the Council on the 27th August last. The proclamation of the proposed county of Villiers, if sanctioned, will satisfy that portion of those gentlemen's requests which refers to the proclamation of a county in the neighbourhood of Port Fairy. They make however a further request, which, considering their extensive purchases of land in that neighbourhood may not be deemed unreasonable, that the country within ten miles from the town of Belfast at Port Fairy should be made a settled district, in the same manner as the land about Portland and other towns. This request could not be granted without the authority of an Order in Council; but to prevent there being any obstacle to such an arrangement, should Her Majesty's Government be disposed to sanction it, the Council advised that pending the decision of the Secretary of State on the subject, the land within the distance of ten miles from Belfast should be temporarily reserved under the powers granted to the Governor by the 9th section of Chapter II. of the Order in Council.

Paper No. 12 appended. Papers 13 and 14 appended.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

APPENDIX.

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MAPS.*

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2. Outline Map, showing the positions of the proposed New Counties in the Port Phillip District which will be ready for proclamation before the end of the year 1848.

No. 1.

EXTRACT from MINUTES of EVIDENCE given by the DEPUTY SURVEYOR-GENERAL before the EXECUTIVE COUNCIL on the 15th June, 1847, of which a complete copy was forwarded to the Right Honourable the Secretary of State in the Despatch of his Excellency Sir Charles FitzRoy, dated 5th July, 1847, No. 137.

Page 6.

42. Have you the maps which were some time since transmitted to the Government by the Surveyor-General, with a proposal that a considerable portion of the lands now occupied by squatters should be divided into and proclaimed by counties as therein shown?—Yes, I have them here. (*Witness produced the maps to the Council, and also a rough sketch showing the proposed new counties on a smaller scale.*)

43. Supposing that the proposed counties shown in these maps were made intermediate lands under the regulations, do you consider that there would be any difficulty in proclaiming the boundaries of them?—There would be no difficulty in proclaiming them as counties provisionally.

44. What is the number of these proposed new counties?—I think there are 50 shown on the plan.

* For the Maps here referred to, *vide* Eighth Report of the Colonial Land and Emigration Commissioners. Presented to Parliament by Her Majesty's Command, June, 1848.

NEW SOUTH WALES.

45. What is the average area of these proposed counties?—About 40 miles square.

46. In stating the number of counties to be 50, you mean that there are 50 in addition to the 25 already proclaimed?—Yes.

47. On a rough estimate what number of acres do you think would be included in those 50 counties?—Forty-five millions of acres in round numbers.

48. Do you consider that this quantity of land would be sufficient to satisfy the demands for purchase during the next 14 years?—That will depend much on the amount of immigration, but I consider that it would be much more than sufficient.

49. Do you consider that the lands which are situated more inland than these counties would be likely to be required for purchase within the next 14 years?—No, I do not.

50. But if the country which formed the colony of North Australia were reunited to this portion of New South Wales, there would be lands there likely to be required for purchase?—No doubt of it. A great quantity of land could be sold there. I have reason to believe that a seaport would be opened immediately.

51. There are lands then in that portion of the country which should be included among the settled districts in the event of their re-annexation to this territory?—Yes; such arrangement would be desirable.

(No. 47/151.) No. 2.

CLERK of EXECUTIVE COUNCIL to DEPUTY SURVEYOR-GENERAL.

Executive Council Office, Sydney,
August 7, 1847.

SIR,

IN the evidence given by you before the Executive Council on the 15th June last, you were understood to say that the undermentioned proposed new counties, as shown in maps then produced by you, could be at once provisionally proclaimed.

Canning.	Sandon.	Wellesley.	Anglesey.
Cavendish.	Inglis.	Wallace.	Dalhousie.
Churchill.	Vernon.	Howe.	Rodney.
Ward.	Hawes.	Combermere.	Polworth.
Rous.	Parry.	Abinger.	Grenville.
Buller.	Buckland.	Bruce.	Heytesbury.
Richmond.	Pottinger.	Douro.	Hampden.
Clarence.	Dampier.	Haddington.	Ripon.
Raleigh.	Beresford.	Bass.	Villiers.
Gresham.	Cowley.	Talbot.	Follett.
Dudley.	Buccleugh.	Evelyn.	

I have now the honour to request that you will state, for the information of the Executive Council, whether any, and if so, which of these counties can be finally proclaimed, either immediately or before the end of the year 1848.

I have further to request that you will explain the precise difference between the topographical information requisite for the final proclamation of counties and that upon which the Government is enabled to proclaim counties provisionally; and that you will further describe the general nature and extent of the alterations to which the boundaries of provisionally proclaimed counties are liable previously to their final proclamation.

Having verbally communicated to you the purpose for which this information is sought, I need not repeat it here.

I have, &c.,

The Deputy Surveyor-General. (Signed) FRANCIS L. S. MEREWETHER.

(No. 47/201.) No. 3.

The DEPUTY SURVEYOR-GENERAL to CLERK of EXECUTIVE COUNCIL.

Surveyor-General's Office, Sydney,
August 9, 1847.

SIR,

I HAVE had the honour to receive your letter, No. 47/151, of the 7th instant, in which, adverting to the evidence given by me before the Executive Council on the 15th June last, respecting a proposal to proclaim counties provisionally, you request to be informed whether any, and (if any) which of the counties so alluded to by me can be finally proclaimed, either immediately or before the end of the year 1848.

And accordingly I have the honour to state to you, for the information of the Council, that the counties numbered and named in your letter as follows, viz.—

4. Ward.	34. Anglesey.
5. Rous.	35. Dalhousie.
14. Vernon.	36. Rodney.
16. Parry.	37. Polworth.
17. Buckland.	38. Grenville.
19. Dampier.	39. Heytesbury.
20. Beresford.	40. Hampden.
21. Cowley.	42. Villiers.
22. Buccleugh.	

Having defined, natural boundaries can be finally proclaimed either immediately or before the end of the year 1848, as may be most expedient.

In explanation of the precise difference between the topographical information requisite for the final proclamation of counties and that upon which the Government is enabled to proclaim them provisionally, I have the honour to state that a county having two or more of its sides defined by natural boundaries, and the remaining side or sides described by an artificial line or lines to points at the extremities of the defined lines, appears to present sufficient certainty for provisional proclamation,

whereas a county having only one side defined, and the remaining sides described by boundaries to be hereafter determined (as is the case with some of the proposed new counties) is devoid of the degree of certainty essential to proclamation even provisionally.

By artificial lines, I mean lines through the air, such as parallels of latitude, meridians, or other lines not actually traced or traceable upon the ground, but the features under which it may be requisite to delineate by geodesical operations. And I have further the honour to state that in the cases of the counties to which I have referred as ready for provisional proclamation the only alterations to which their boundaries are susceptible are those that refer to the particular delineation (by minute survey) of the crests of mountain ranges which form their connecting features, the extreme points of such boundaries having been previously determined by trigonometrical operations.

I have, &c.,

F. L. S. Merewether, Esq., Clerk of Executive Council. (Signed) S. A. Perry, Deputy Surveyor-General.

(No. 47/154.) No. 4.

Clerk of Executive Council to Deputy Surveyor-General.

Executive Council Office, Sydney, August 10, 1847.

Sir,

I do myself the honour to acknowledge the receipt of your letter of yesterday's date, in reply to mine of the 7th instant.

In that letter you inform me that of the proposed new counties referred to in your evidence before the Council, seventeen have defined natural boundaries, and can therefore be finally proclaimed whenever it may be thought expedient to do so. It appears, however, that further consideration has led you to doubt whether the boundaries of some of the other proposed counties are sufficiently determinate to admit of their provisional proclamation.

I shall therefore be obliged if you will now favour me with a list of those proposed counties which can in your opinion be provisionally, though not finally, proclaimed, either at once, or before the end of the year 1848.

I have, &c.,

The Deputy Surveyor-General, &c. &c. (Signed) Francis L. S. Merewether.

(No. 47/229.) No. 5.

Deputy Surveyor-General to Clerk of Executive Council.

Surveyor-General's Office, Sydney, August 24, 1847.

Sir,

In attention to your letter of the 10th instant, (No. 47/154), requesting, with reference to mine of the 9th instant, on the subject of proposed new counties, that I will furnish a list of those proposed counties which can, in my opinion, be provisionally proclaimed either at once or before the end of the year 1848, in addition to the seventeen counties mentioned in my communication above referred to as ready for final proclamation, I have the honour to submit, for the consideration of the Council, the names of thirteen additional counties (the unsurveyed portions of the boundaries of which being, generally speaking, connected ranges of mountains) may, in my opinion, be *provisionally proclaimed* whenever it may seem expedient, the *details* of the unfinished boundaries being left for future proclamation. They are as follows, viz.:—

North.	*South.*
Churchill.	Wellesley.
Cavendish.	Wallace.
Clarence.	Ripon.
Dudley.	Talbot.
Sandon.	Evelyn.
Hawes.	Douro.
	Bruce.

I have, &c.,

F. L. S. Merewether, Esq., Clerk of Executive Council. (Signed) S. A. Perry, Deputy Surveyor-General.

(No. 47/185.) No. 6.

Clerk of the Executive Council to Attorney and Solicitor-General.

Executive Council Office, Sydney, September 14, 1847.

Gentlemen,

By direction of the Governor and the Executive Council, I do myself the honour to transmit to you two letters from the Deputy Surveyor-General, in which he states that certain proposed new counties can be "*finally*" proclaimed, and certain others can be "provisionally" proclaimed before the end of the year 1848; and he points out the difference between the topographical information which enables him to propose counties for provisional proclamation, and that upon which they can be finally proclaimed. 9th and 24th Aug. 1847.

With reference to the distinction thus explained by the Deputy Surveyor-General, I am directed to request that you will favour me with your opinion for the information of the Governor and Council, whether provisionally proclaimed counties could be legally included in intermediate districts under the provisions of the 3rd Section of Chapter I. of Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in this colony.

I have, &c.,

The Hon. the Attorney-General, and the Solicitor-General. (Signed) Francis L. S. Merewether,

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NEW SOUTH WALES.

No. 7.

ATTORNEY and SOLICITOR-GENERAL to CLERK of EXECUTIVE COUNCIL.

Attorney-General's Office,
October 2, 1847.

SIR,

IN reply to your letter of the 14th of September last, transmitting to us, by direction of the Governor and Executive Council, two letters from the Deputy Surveyor-General, in which he states that certain proposed new counties can be "finally" proclaimed, and certain others can be "provisionally" proclaimed before the end of the year 1848; and that he points out the difference between the topographical information which enables him to propose counties for provisional proclamation, and that upon which they can be finally proclaimed. And with reference to the distinction thus explained by the Deputy Surveyor-General, you are directed to request our opinion, for the information of the Governor and Council, whether provisionally proclaimed counties could be legally included in intermediate districts under the provisions of the 3rd Section of Chapter I. of Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in this colony.

Original Letters returned.

We have the honour to state, that in our opinion counties proclaimed "provisionally" in the sense in which the term appears to be employed by the Deputy Surveyor-General, could be legally included in the intermediate districts under the provisions of Her Majesty's Order in Council; but we conceive that they might be proclaimed in such a manner as would amount to more than a provisional proclamation. They might be described by the ascertained boundaries, and by the artificial line or lines of which the termini and direction are given, subject to a proviso for the more exact determination of the latter boundary hereafter, upon examination of and by reference to natural features. In the mean time the artificial line would be the boundary, and in order to avoid conflicts with the rights of lessees hereafter, the line should be an outside one, so as to be sure of including every point of the ultimate boundary; for although lessees might complain of lands being made "intermediate" which were held as "unsettled," the converse is obviously improbable.

We have, &c.,
(Signed) J. H. PLUNKETT, Attorney-General.
W. M. MANNING, Solicitor-General.

F. L. S. Merewether, Esq.,
Clerk of Executive Council.

(No. 47/206.)

No. 8.

CLERK of EXECUTIVE COUNCIL to DEPUTY SURVEYOR-GENERAL.

Executive Council Office, Sydney,
October 12, 1847.

SIR,

REFERRING to your letters to me of the 9th and 24th August last respecting the proclamation of certain proposed new counties, I am directed by his Excellency the Governor to forward to you the enclosed opinion of the Attorney and Solicitor-General.

October 2, 1847.

With reference to that opinion, I am directed to request that you will state which of the proposed new counties in the Middle district can be described in the manner deemed necessary by the law officers before the end of the year 1848, so as to bring them within the class of intermediate lands under the provisions of Section 3 of Chapter I of the Order in Council.

In respect to any of the counties referred to, which, although not at the present time ready for proclamation, can be made so before the end of the year 1848 by further practicable surveys, I am to request that you will state, with reference to each of such counties separately, the nature and extent of the further surveys necessary, the arrangements requisite for their execution and their probable cost.

I have, &c.,
(Signed) FRANCIS L. S. MEREWETHER.

The Deputy Surveyor-General.
&c. &c.

(No. 47/316.)

No. 9.

DEPUTY SURVEYOR-GENERAL to CLERK of EXECUTIVE COUNCIL.

Surveyor-General's Office, Sydney,
October 19, 1847.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 12th instant, No. 47/206, enclosing the opinion of the Attorney and Solicitor-General, respecting the proclamation of certain new counties, referred to in my letters to you of the 9th and 24th August, and conveying to me the directions of his Excellency the Governor, that I should state which of the proposed new counties in the Middle district can be described in the manner deemed necessary by the law officers before the end of the year 1848, so as to bring them within the class of intermediate lands, under the provisions of Sec. 3 of Chap. I of the Order in Council; and I have accordingly the honour to enclose a sketch, exhibiting, by distinguishing colours, such of the proposed new counties as can be described by boundaries completely surveyed, and thus ready for immediate proclamation if considered expedient; such others as can be described for provisional proclamation, but which require further survey for definite description, and final proclamation before the end of 1848, and such as can be sufficiently surveyed for provisional proclamation only by that period, in the manner deemed necessary by the law officers, and a schedule of which I have the honour to append to this communication; but it is to the sketch that I beg leave to solicit his Excellency's particular attention, and with reference to the relative positions of the several counties, I would further submit the expediency of considering, not only the locality as regards any prescribed distance from the sea coast, but the amount of population, and such statistical information as may be gleaned from the Commissioners' reports, in order to arrive at the best accessible data for the classification of the counties into intermediate and unsettled; for I apprehend that the result of such inquiry will be, that some of the most remote counties present sufficient inducements for permanent location for purposes of cultivation, or for mining operations to

Map No. 1 herewith.

justify their inclusion within the class of intermediate, whereas others, nearer to those already settled, may remain for centuries almost in their present state, or for the wants within which the reserves may be a sufficient provision. In making these observations I have exceeded the limit of the instruction conveyed to me by your letter under reply, but I trust, that I may be permitted to plead as an excuse the paramount importance of the subject as regards the disposal of the Crown lands.

With respect to the nature and extent of the further surveys necessary to prepare for proclamation before the end of 1848, such counties as are not at the present time ready, I have the honour to state, that as the crests of well-defined mountain ranges, or the courses of permanent waters have been usually selected as the most convenient boundaries for description, the tracing of these for some miles to connect points already established by previous survey is all that is requisite, and can be performed by the officers of this department as part of their business, while exercising a supervision of the contract work, but that if performed separately, the probable cost would be as in the schedule appended.

I have, &c.,

F. L. S. Merewether, Esq., Clerk of Executive Council. (Signed) S. A. Perry, Deputy Surveyor-General.

Schedules referred to.

No. 1.

Counties that can be immediately proclaimed.—Pink on the map.

Stanley.	Dampier.
Ward.	Buccleugh.
Rous.	Wallace.
Buckland.	Wellesley.
Auckland.	

Counties that will be ready for proclamation before the end of 1848.—Yellow on the map.

Vernon.	Cowley.
Hawes.	Beresford.
Parry.	

Counties that may be provisionally proclaimed before the end of 1848.—Green on the map.

Richmond.	Raleigh.
Clarence.	Dudley.

No. 2.

Estimated expense of survey of unsurveyed boundaries of the counties of

Richmond, Raleigh, Dudley } say 839*l.* 3*s.* 9*d.*

(No. 47/205.) No. 10.

Clerk of Executive Council to Superintendent of Port Phillip.

Executive Council Office, Sydney,
October 12, 1847.

Sir,

I am directed by his Excellency the Governor and the Executive Council to transmit to your Honour an opinion of the Attorney and Solicitor-General, respecting the accuracy of description which will be necessary for the proclamation of the boundaries of new counties, with a view to their being included in the class of intermediate lands, under the provisions of the 3rd section of Chap. I. of Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in this colony.

I also transmit to you copies of two letters from the Deputy Surveyor-General, which were referred to the law officers, when the opinion which I now enclose was asked for, from which you will perceive that that officer reports that the boundaries of 30 proposed new counties are sufficiently determined to admit of their proclamation at once either finally or provisionally.

The enclosed map will show the positions of the counties referred to, as well as those of some other contemplated counties, of which the boundaries are less perfectly determined. With reference to these documents, I have the honour to request that you will have the goodness to state for the information of the Governor and Council which of the proposed new counties within the Port Phillip district can be described in the manner deemed necessary by the Crown law officers before the end of the year 1848, so as to bring them within the class of intermediate lands. The whole of Gipps Land having been included in that class by the terms of the Order in Council, it will, of course, be unnecessary to obtain the description of any counties comprised within that district. I need scarcely add that the Governor and Council will be glad to receive any suggestions which your Honour may have to offer respecting the proposed counties which it would be desirable to select for proclamation before the end of the year 1848, should the proclamation of the whole of them be found inexpedient or impracticable.

In respect to those of the proposed counties, of which the boundaries might be sufficiently determined for proclamation before the end of the year 1848, although not so at present, it will be desirable that your Honour should state, with reference to each of them separately, the extent of surveying operations which would be requisite for the purpose, and the probable expense thereof.

I have, &c.,

His Honour the Superintendent of Port Phillip. (Signed) Francis L. S. Merewether.

NEW SOUTH WALES.

(47/1302.)

No. 11.

SUPERINTENDENT of PORT PHILLIP to COLONIAL SECRETARY.

Superintendent's Office, Melbourne,
November 19, 1847.

SIR,

I BEG to acknowledge the receipt of your Despatch, of 12th October, No. 205, transmitting to me by the instruction of his Excellency and the Executive Council an opinion of the Attorney and Solicitor-General, respecting the accuracy of description which will be necessary for the proclamation of the boundaries of the new counties, with a view to their being included in the class of intermediate lands, together with copies of two letters from the Deputy Surveyor-General respecting the boundaries of certain proposed new counties, and of which the map also furnished to me shows the position.

August 9, No. 201.
August 24, No. 229.

With reference to the proposed new counties within the Port Phillip district drafted upon that map (in addition to the three already determined), 19 in number, and in reply to your request that I would state for the information of the Governor and Council which of the proposed new counties within the Port Phillip district can be described in the manner deemed necessary by the Crown Law officers, before the end of the year 1848, so as to bring them within the class of intermediate lands; I beg to state that I have given the subject referred to me immediate and careful consideration, and I have now the honour to enclose a descriptive return of all the counties into which it appears expedient that such portions of the district, as it may be necessary or desirable to class as intermediate lands, should be subdivided, drawn up in form which appeared to me to convey the most information in the smallest space.

In each instance, the proposed boundaries are shewn, the surveyed, or unsurveyed divisions at this date, and an estimate of the probable time which may be required for the completion of the actual survey of the majority of unsurveyed portions.

The new counties on the list now furnished by me, will be seen to be 18 in number. They are not exactly identical with those proposed upon the chart furnished by me, and upon this and other points, I beg leave to offer the following remarks :—

1st. Comparing the enclosed map (which however incorrect in many details, is sufficiently correct to permit me to employ it for the present purpose), with the draft of the new counties on the map forwarded to me, it will be seen, that I propose that the country included in the upper portion of the Glenelg River, the Grampians, and the Grange Burn and Wannon, should be included in the intermediate lands, and constitute a county, to which I propose the name "Dundas," being that of a marked group of hills about the centre, should be given.

2nd. Also that the country between the upper portion of the Loddon River, and the watershed to the south and eastward, should form another county. To this I have transferred the name "Polworth," dispensed with elsewhere. There is no reason why these respective tracts of country should be excluded, and it will be seen, that these additions render the limits of the intermediate districts in this quarter more continuous and compact.

3rd. A further departure from the plan proposed, will be found to consist in my suggesting that the whole of the southern extremity of the district (Cape Otway), should be comprised in one county, "Heytesbury," instead of two ("Heytesbury" and "Polworth.") The character of the country, and the greater facilities thus afforded of assigning natural boundaries in this quarter, have led me to consider this change expedient.

4. I take leave to make a similar proposal with regard to the intermediate lands lying around, and to the eastward of western port; viz., that these should constitute but one county, "Mornington," a name already given with the late governor's seeming acquiescence some years ago, instead of the three named "Bass," "Douro," and "Haddington." The principal part of the lands, of which the last-named was supposed to consist, fall naturally within the boundaries of others adjacent to it.

These are all the departures from the general outlines of the scheme proposed.

As to the details of boundaries, I have considered that his Excellency and the Executive Council would give me permission to suggest those which were under every point of view, the clearest and easiest of recognition; and it is satisfactory to me, that it is in my power to propose, in almost every instance, clear, natural, and easily defined boundaries. In fact those laid down, though not of course actually surveyed throughout, are such as to admit of the counties being all provisionally proclaimed with but little delay, and with the assistance of a moderate addition to the survey department of this district; I do not see why the boundaries of a large majority might not be finally proclaimed before the close of 1848, with the exception, perhaps, of the counties comprised within the Gipps Land district, where the survey of the boundaries involves that of the elevated main chain, and the upper portions, as well as the lower division of many of the streams flowing from them.

I may further observe, that I do not consider that in the Port Phillip district any addition to the class of "intermediate lands," beyond that hereby proposed is called for, or to be recommended under any circumstances; indeed, I cannot assign any clear reason why a tract of country so distant from the coasts, so indifferent, compared to many, as that named "Rodney," should have been comprised within them.

I have, &c.,
(Signed) C. J. LATROBE.

The Honourable the Colonial Secretary,
&c. &c. &c.

ENCLOSURE referred to.

INTERMEDIATE LANDS.—PORT PHILLIP.

Counties already determined.

11. Bourke	}	3
9. Grant		
2. Normanby		

New Counties proposed.

1. Follet		
3. Dundas		
4. Villiers		
5. Ripon		
6. Hampden		
7. Heytesbury		
8. Grenville		
10. Polworth		
12. Dalhousie	}	18
13. Rodney		
14. Anglesey		
15. Evelyn		
16. Mornington		
17. Douro		
18. Bruce		
19. Abinger		
20. Combermere		
21. Howe		
Total .		21

November 18, 1847. (Signed) C. J. Latrobe.

No. 12.

Extract from a Letter from the Superintendent of Port Phillip, dated 24th September, 1847 in which is suggested the Proclamation of New Counties for the purpose of extending the Intermediate Districts in that part of the Colony.

"Although this subject is not touched upon in your letter, I feel it my duty to advert to the expediency of taking early steps to include additional fertile occupied portions of land in this district, under the class of intermediate lands, in conformity with the provisions made by the recent Orders in Council.

"I consider that it is absolutely necessary that the country lying between the county of Normanby and the county of Grant, for instance, including on the one hand, the settlements at Belfast and Warruambool; and, on the other, the fertile and purchased lands about Lake Colac, should be comprised within such new counties.

"Again, the country to the eastward of the county of Bourke, including a large portion of fully-occupied land, and, from the peculiar formation of the coast line, a large portion of the so-called 'settled country' should undoubtedly be formed, as I have already had the honour to suggest in former correspondence, into a distinct county.

"From the advanced state of the surveys, I do not consider that any great delay need occur, if the branch of the Survey Department in this district is sufficiently strengthened, before it might be possible to determine accurately the proper boundaries of these in each instance."

No. 13.

Mr. W. Rutledge to the Colonial Secretary.

Sir, Sydney, August 6, 1847.

Referring to the late Orders in Council relative to the Crown lands of the colony, I have the honour to request that you would lay before his Excellency the Governor the fact that Her Majesty's Secretary of State for the Colonies could not have been aware of the state of the Port Fairy district, and the large population now inhabiting it, and likely to continue steadily on the increase, provided the fertile tracts of land in the neighbourhood should be free to be disposed of by sale as required; in proof of which I may state, that where a population of about 1000 souls are now located in almost exclusively agricultural pursuits, there were not 100 three years ago. I have therefore to request that his Excellency will be pleased, so far as the Orders in Council alluded to admit of it, to continue to give opportunity to persons to locate themselves as agriculturists in that district by proclaiming it a county, and declaring ten miles of country from Belfast, as well as such portions of country as may be found, upon examination in the vicinity, to be fit for agricultural and other local purposes, to be comprehended within the settled districts. I beg to bring this latter point the more particularly before his Excellency, as the delays incident upon purchasing lands held under the eight years' lease, and the being surrounded on every side by the squatters' runs, would prevent persons purchasing land to any extent, so circumstanced, however good such land may be: besides, if all the agricultural lands alluded to be let on eight years' leases, there will be no means of buying it at public sale should the squatter think fit to use his right of pre-emption; but by placing within the conditions of settled lands, certain portions of the Port Fairy district, I feel assured that such lands would very soon be purchased from the Crown, and in some instances at a much higher rate than 1*l.* per acre: in proof of which I may state, that in February last 2*l.* and 3*l.* per acre was paid for land 15 miles from Belfast in farms of 80 acres and upwards; and at this moment almost every acre of the 17,000 already purchased at Port Fairy is occupied in farms for agricultural purposes; and there are many persons now ready to purchase more if they be not prevented by such lands being leased to squatters.

I respectfully hope his Excellency will take into his consideration the very large sums of money that I and others have paid the Government for land at Port Fairy, and that he will be pleased to allow us what the late Orders in Council do all other landed proprietors (who have not paid so much, or so high a price as we have), namely, the use and occupation of some unlocated lands near our purchase, or the right to compete for such in rental or otherwise, by placing Port Fairy on the same footing as Portland and other places far less fertile in respect of the 10 miles to be reserved as the

NEW SOUTH WALES

settled district; and I trust that his Excellency will not sanction a district suited better for a dense population than any other portion of the colony, owing to its climate, as well as soil, to be occupied by a few straggling cattle, and thus ruin and drive out of the place those who on the faith of former land regulations now inhabit it, and by the letter of the late land orders, would be treated as if they never had paid a shilling for land, which I feel assured could only have occurred by an oversight, or want of knowledge of the facts; I feel persuaded also, that the Governor will readily perceive how calculated to prevent many from buying land to locate themselves and families it would be not to reserve certain portions of land from lease in so fertile and fine a district.

I have, &c.,

The Hon. the Colonial Secretary, &c. &c. &c.

(Signed) WILLIAM RUTLEDGE.

No. 14.

Mr. JAMES ATKINSON to COLONIAL SECRETARY.

SIR, Sydney, August 4, 1847.

I HAVE the honour to request that you will lay before his Excellency the Governor the following statement, in the hope that his Excellency will use the authority delegated to him by Her Majesty's late Orders in Council relating to Crown lands, and thereby place the district of Port Fairy in the position which I feel assured Her Majesty's Secretary of State for the Colonies would have conceded to it, had his Lordship been aware of the circumstances under which the country around Port Fairy became located, and as an agricultural settled district I may say called into existence.

Relying upon Her Majesty's Government, and its intentions so strongly declared in all former official acts, to protect the legitimate interests of those who might purchase Crown lands, and settle upon them an agricultural population, I, and other persons, have paid into Her Majesty's Treasury nearly 17,000*l.*, for as many acres of land at and around Port Fairy.

In addition to this, a large amount of capital has been expended in locating upon these lands a population, and bringing them into cultivation, of which his Excellency will be able to form some estimate from the fact, that on my lands alone (from 9000 to 10,000 acres) not less than a sum of 25,000*l.* has been expended, including the original purchase money paid to Her Majesty's Treasury.

The result, sir, of this has been, that a large agricultural population, consisting *entirely* of immigrant families, has been located on these lands, that a seaport township (Belfast), already numbering nearly 500 souls, has been created, and a considerable trade in every kind of agricultural produce successfully carried on, and this entirely at the cost and risk of individual enterprise, the Government not having expended in the Port Fairy district, or on the lands so purchased, any portion of the large sums paid into the Treasury for these lands.

By the late Orders in Council the Imperial Government has been anxious to protect from the operation of the squattage system such portions of the colony as were *supposed* suitable for agricultural purposes and the location of immigrant families, but uninformed of the true nature of the country, Her Majesty's Secretary of State for the Colonies has unhappily reserved for these purposes wildernesses unfit for the sustenance of man, as the country around Eden, Portland, and on the lower Glenelg, and has shut out from the agriculturist, and married immigrant of small capital, by placing them within the operation of squatting system, the most fertile and best situated lands in the entire colony, namely, the country on the banks of the Wannon and Wanda Rivers, and the country comprised in the Port Fairy district.

Under these circumstances, and to enable the large agricultural population already settled at and around Port Fairy, as well as those who are daily going to settle in that district, to acquire land by purchase for themselves and families, I must respectfully, and most earnestly, on behalf of every one so located, request that his Excellency will be pleased to declare the district of Port Fairy a county; and the country as at Portland for 10 miles from Belfast, together with such other portions of country as the local government at Melbourne may recommend, to be within the settled districts.

I have, &c.,

The Hon. the Colonial Secretary, &c. &c. &c.

(Signed) JAMES ATKINSON.

No. 5.

(No. 239.)

No. 5.

Answered May 24, 1848, p. 132

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, December 6, 1847.

MY LORD, (*Received May* 9, 1848.)

ALTHOUGH the arrangements are not yet complete, I think it right to make your Lordship acquainted with the steps which have, up to this time, been taken toward the bringing into effect of the regulations contained in Her Majesty's Order in Council of the 9th March, 1847, which was transmitted to me with your Lordship's Despatch of the 30th March, 1847, No. 120. With this object I enclose copies of the Minutes of my Executive Council which contain the recommendations on which my measures have been framed.

Extracts (18) from Executive Council Minutes, with Appendix.

The surveys required to enable the boundaries of runs to be described in the leases with that certainty which, as I am advised, the law requires, cannot be accomplished without very considerable expense and delay. I have, however, studiously endeavoured to adopt such a system as will combine expedition and economy, as far as the circumstances of the case will allow.

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The arrangement which I have sanctioned is as follows:—The unsettled and intermediate lands will be divided into districts comprising one or more "Commissioners' Districts," and in each of these there will be stationed a Government Surveyor with a party of six men, whose duty it will be to survey the general features of the country, to fix starting points for the surveys of the boundaries of runs, to lay down main lines of thoroughfare, with township reserves at intervals along them, and to check and supervise the work of the contract Surveyors by whom I propose that the boundaries of the runs shall be laid down.

I am not prepared to assert that the surveys of the boundaries of runs might not be performed at a lower rate per mile by the Government department than by contract. I am, however, convinced that the incidental expenses which an increase of the Survey Department for this temporary object would entail after the completion of the work, would make the ultimate and real cost of a Government Survey by far the heavier of the two. On this account, as well as to avoid the inconvenience which would arise from the real or assumed claims of the officers who would be reduced on the completion of the surveys, I have determined in favour of the contract system.

I have not yet issued any advertisement for contracts, but I shall do so as the demands for leases are received and admitted, and the boundary lines to be surveyed are determined, so as to admit of their being clearly described to the contractors.

My Executive Council having thought it very desirable that reserves for townships and small agricultural settlements should be made along the main lines of thoroughfare in the unsettled and intermediate districts, I have taken the opinion of the law officers of my Government as to whether, under the powers granted by the 9th section of Chapter II. of the Order in Council, I could legally, except from leases demanded under the 11th section of Chapter II. of the Order, or resume during the continuance of leases such lands as might be required for those purposes. The law officers having informed me that I can legally do so, I propose to make such reserves, varying in extent from 9 to 25 square miles, and I have given directions that they may be selected and submitted for my approval accordingly.

Papers marked D and E appended to Council proceedings.

The Crown law officers having given an opinion in favour of such a distinction being made, I propose to subject the tenderers for "new runs," who will frequently have incurred considerable trouble, risk, and expense in discovering such runs, to a less general competition than the applicants for previously occupied runs which may have fallen vacant. On the receipt of applications for the latter, I shall in every case cause a description of the run to be published in the Government Gazette, with a notice of the day on which tenders for it will be received. But in respect to new runs, I propose to issue a general notice that tenders may be sent in at any time without previous notice; and that such tenders will be opened on the first Monday in every month, by which means the tenderer will be secured against the competition of any other persons than those who may happen to have obtained a knowledge of the run, and of his intention to apply for a lease of it. If, however, the run applied for should prove to contain any land already leased, or under promise of lease, or to comprise any part of a run separately tendered for by another person, I conceive that the day on which fresh tenders will be received must, under the terms of the 13th section of Chapter II. of the Order in Council, be publicly announced, and I shall accordingly notify it in every case in the Government Gazette.

Appendix K to Council proceedings.

I intend to appoint a Board in Sydney for the opening of tenders for the leases of runs, consisting of the undermentioned five officers of my Government, three of whom will form a quorum; viz.,

The Colonial Secretary.
The Colonial Treasurer.
The Auditor-General.
The Surveyor-General.
The Clerk of the Executive Council.

I shall consult the Superintendent of Port Phillip as to the formation of a similar Board at Melbourne.

It does not occur to me that there are any other matters in the arrangements now reported which I need place prominently under your Lordship's notice;

NEW SOUTH WALES

No. 238 of December 6, 1847.

and I beg to refer to the enclosed minutes of my Council for further information as to details.

I have reported in a separate Despatch the measures which I have taken respecting the preparation of descriptions of the boundaries of new counties, with a view to their proclamation before the end of the year 1848, if directed by your Lordship.

Regulations for the occupation of Crown lands in the settled districts, in accordance with the provisions in Chapter IV. of the Order in Council, are now under the consideration of my Executive Council.

I have, &c.,
(Signed) C. A. FITZROY.

The Right Hon. Earl Grey,
&c. &c. &c.

Encl. in No. 5.

Enclosure in No. 5.

EXTRACTS from MINUTES of PROCEEDINGS of the EXECUTIVE COUNCIL respecting the MEASURES to be taken for giving effect to HER MAJESTY'S ORDER IN COUNCIL of 9th March, 1847.

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The Council further advise that, until the rent of a new run can be determined by valuation of its grazing capabilities, the successful tenderer shall pay, according to his own estimate, under a guarantee to make up the difference in the event of his estimates being too low and that 640 cattle shall be declared by the Governor to be equivalent to 4000 sheep (Order, Chap. II., s. 2) 36
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PROCEEDINGS of the EXECUTIVE COUNCIL between the 28th June and the 18th November, 1847, relative to the measures to be taken for giving effect to the Regulations contained in Her Majesty's Order in Council of the 9th March, 1847, respecting the leasing of Crown Lands in the Unsettled and Intermediate Districts by that Order established.

No. 1.

Extract from Minute, No. 47/12, *dated* 28*th June,* 1847.

Members present:—

His Excellency the Governor.
His Excellency the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

With reference to the evidence given before the Council, on the 15th June instant, by the Deputy Surveyor-General, his Excellency the Governor directed the attention of the Council to the measures to be taken for obtaining the topographical information necessary to enable the Government to meet the demands which will be made upon it for leases of runs under the 2nd and 3rd chapters of the proposed rules. His Excellency understood from the Attorney-General, that in the leases to be issued under the expected Order in Council, the boundaries of the lands demised must be set forth with certainty, and that the requisite certainty could only be insured by as accurate a description as would in law be necessary in a deed of grant. From the evidence of the Deputy Surveyor-General it appeared that "of three-fourths of the country at present occupied by licensed squatters he possessed no survey, with

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the exception of such parts as had been casually laid down in the course of exploring expeditions," and that of a considerable portion of the remaining fourth part the surveys were only "partial." It was clear, therefore, that before the Government could be in a position to comply with the demands which would be made on it for leases very extensive surveys must be carried out, and his Excellency desired the opinion of the Council as to the steps which should be taken towards their commencement.

The Council advised that a letter should be addressed to the Deputy Surveyor-General containing the following instructions:—

1st. That he should propose with the least possible delay arrangements for the speedy completion of the surveys of the general features in the squatting districts, with a view to the settlement, by triangulation or otherwise, of points throughout those districts which would facilitate the surveys of the boundaries of runs.

2nd. That he should state in what manner and to what extent the Survey Department should in his opinion be increased in order to accomplish, with all practicable expedition, the above-mentioned survey of the general features, and the further more detailed surveys which would be necessary for the purpose of enabling the Government to describe with precision the boundaries of runs.

3rd. That with reference to the statement made in his evidence that he was "sufficiently informed to lay down general lines of thoroughfare and sites of towns in all the country at present occupied by licensed squatters," he should be requested to lay down on maps, and submit for approval, such lines of thoroughfare and sites of towns, making about each town a reserve of suitable extent for suburban and cultivation allotments.

The Council further advised that a copy of the letter containing these instructions should be forwarded to the Superintendent of Port Phillip, with a request that his Honour would take similar steps in respect to that district.

No. 2.

Extract from Minute, No. 47/13, *dated July* 8, 1847.

Members present as above.

With reference to the proceedings at the last and previous meetings relative to the measures to be taken for the purpose of expediting the issue of leases under the expected Order in Council, his Excellency the Governor consulted the Council as to the expediency of obtaining, if possible, from the Commissioners of Crown lands beyond the boundaries, such descriptions of the runs comprised within their respective districts as would enable the Government to advertise the several runs before giving instructions for their measurement for leases, in order that any objections which might arise should be previously considered and disposed of.

The Council advised that the several Commissioners of Crown lands beyond the boundaries should be instructed to furnish, with as little delay as possible, the undermentioned returns, with reference to their respective districts:—

1. A nominal return of all licensees of runs in the district, showing the separate runs occupied by each licensee, the name by which each run is known, the approximately estimated number of acres comprised in each run, and a general description, as far as may be practicable, of the boundaries of each run.

2. A return of all lands within the district which are not yet occupied under licenses, giving as far as may be practicable, a general idea of the particular localities and the extent in acres or square miles of such lands.

No. 3.

Extract from Minute, No. 47/14, *dated* 28*th July,* 1847.

Members present as above.

Referring to the proceedings at the last and previous meetings relative to the preparatory measures to be taken for giving effect to the expected Order in Council respecting the occupation of Crown lands, his Excellency the Governor laid before the Council a Despatch from the Right Honourable the Secretary of State, forwarding a copy of the Order as finally sanctioned by Her Majesty.

His Excellency then explained that, as the financial arrangements for the ensuing year were based upon an intended assessment on stock pastured beyond the settled districts of the colony, the consideration of the estimates for 1848 could not conveniently be proceeded with, until the Legislative Council should have been informed of the provisions of this Order. He was anxious, therefore, to lay it before that body with as little delay as possible. His Excellency was, however, apprehensive that a direct communication of the Order by himself, either by message or through the Colonial Secretary, might be considered a publication within the meaning of the 11th section of the 2nd chapter in the Order, and that the Government would in such case be placed under obligation to satisfy within six months from the present time the demands for leases of all runs which have been in the licensed occupation of their holders for one year, and might possibly be held legally responsible for any injury which its inability to do so might entail upon the parties interested.

The Council, after an attentive consideration of the questions raised by his Excellency, advised that the following case should be submitted to the Crown law officers, and that until the receipt of their opinion thereon his Excellency should refrain from making any communication of the Order to the Legislative Council.

CASE.

By Section 11 of Chapter II. of the Order in Council of the 9th March, 1847, all occupants of Crown lands who shall have been in licensed occupation of the same for at least one year at the time when the Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations within six months from the date of the publication of the Order in Council by the Governor or other officer administering the Government, but not afterwards. The opinion of the law officers is requested as to whether the presentation by the Governor of a copy of the Order in Council to the Legislative Council, either by message or through an official member, would be such a publication of the Order as would entitle the licensed occupants referred to to demand leases of their runs within six months afterwards, as it will be impossible from the state of the surveys, and especially as respects the boundaries of runs, and also the determination of the boundaries of the intermediate and unsettled lands by the proclamation of new counties in the manner pointed out by Section 3 of Chapter I., to issue the leases within the period of six months from such publication. The Crown Law Officers are further requested to advise as to the liability which the Government would incur to parties entitled to demand their leases, for any damage they might sustain from this impossibility of issuing them.

No. 4.

Extract from Minute, No. 47/15, dated 2nd August, 1847.

Members present as above.

His Excellency the Governor laid before the Council the opinion of the Attorney and Solicitor-General on the case proposed at the last meeting with reference to the publication of the Order in Council respecting the occupation of Crown lands in New South Wales. Appendix A.

In this opinion the law officers stated that the Government would not be justified in delaying the formal publication by the Governor of the Order in Council,—that it is not imperative on the Government to issue leases within six months, although licensed occupiers of Crown lands are compelled to demand them within that term,—and that the Government would incur no liability to persons entitled to demand leases from the impossibility of issuing them within the said six months.

After an attentive consideration of this opinion, and of the provisions of the Order in Council, the Council made the following further recommendations :—

1. That Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in New South Wales, should forthwith be communicated to the Legislative Council, either by message or through an official member, as his Excellency should think most expedient.

2. That as early as convenient after such communication to the Legislative Council, the Order should be formally published by proclamation in the "Government Gazette," with an accompanying notice warning all parties concerned that applications for leases will be received through some stated official channel, in a given form, within the periods prescribed in the Order, dated from its first appearance in the "Gazette;" but intimating at the same time that the issue of leases will not take place immediately on the demands for them being made, that the interval between the registration of a demand and the time when the Government will be in a position to satisfy it, may be very considerable, and that until the end of the year 1848 the Government will not, in many cases, be able to determine whether runs will be in unsettled or intermediate districts.

3. That the law officers should be called upon to advise whether, consistently with the terms of the Order in Council, the Government can reserve from leases demanded thereunder, or can resume, under Section 9 of Chapter II., during the continuance of a lease, such lands as may be required for sites of towns, with adjacent cultivation allotments.

4. That the law officers should be instructed to prepare forms of the instruments by which the Governor shall convey leases of lands under the Order in Council, accordingly as they may be situated in intermediate or unsettled districts.

5. That the law officers should be requested to state, with as much precision as the nature of the question will allow, what degree of accuracy in the descriptions of the boundaries of runs will be sufficient to satisfy that principle of law which requires certainty of definition in grants or other conveyances from the Crown.

6. That in accordance with the suggestion made in their opinion, the law officers should be requested to prepare a form to be used by all persons demanding leases of their runs under Chap. II. Sec. 11, of the Order in Council.

7. That all persons demanding leases of their runs under Chap. II., Sec. 11 of the Order in Council, should be required to set forth clear descriptions of the runs demanded, and of the boundaries of the same, in the manner required by the 13th section of Chap. II. of the Order with respect to new runs; and that the form to be prepared by the law officers should be framed with a view to the insertion of such descriptions.

8. (*a*) * * * * *

9. That the Deputy Surveyor-General should be instructed to proceed at once to determine, by survey, the under-mentioned boundary lines of settled and intermediate districts, viz. :—

(1). The boundaries of the counties of Macquarie, Stanley, and Auckland, (if not already laid down), and of the proposed new county between Auckland and St. Vincent.

(*a*) The paragraph here omitted refers to the proposed new counties, and is enclosed in Governor Sir Charles FitzRoy's Despatch on that subject, dated December, 1847.

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(2). Lines including all lands within the distance of 10 miles from any point of the outward limits of each of the following towns or townships:—

Wellington.	Ipswich.
Grafton.	Eden.
Macquarie.	

(3). Lines including all lands within the distance of two miles from either of the two opposite banks of the under-mentioned portions of the following rivers:—

The Clarence from a point at the distance of 50 miles from the sea, measured in a straight line.

The Richmond from a point at the distance of 20 miles from the sea, measured along the course of the river.

10. That the Superintendent of Port Phillip should be requested to take measures for determining, by survey, the under-mentioned boundary lines of settled and intermediate districts, viz.:—

(1). Lines including all lands situated within the under-mentioned distances from any point of the respective outward limits of the following towns:—

Melbourne . . .	25 miles.
Geelong . . .	15 miles.
Portland . . .	10 miles.
Alberton . . .	10 miles.

(2). The boundaries of the counties of Bourke, Grant, and Normanby, (if not already laid down,) and of the district of Gipps Land.

11. That the Superintendent of Port Phillip should be requested to propose for the consideration of the Governor, the point on the Glenelg from which the lands within two miles from either of its banks are to be included within a settled district, under the direction contained in the Order in Council, Chap. I., sec. 2. (7).

No. 5.

Extract from Minute, No. 47/16, dated 6th August, 1847.

Members present as above.

Referring to the 11th and 13th sections of the Order in Council, which had been under their consideration at the last and preceding meetings, his Excellency the Governor laid before the Council a letter from the Colonial Treasurer, submitting one addressed to him by Mr. Commissioner Rolleston, in which that officer inquired whether he should csntinue to recommend applications for licences for unoccupied lands in his district.

Appendix B.

With reference to the question thus raised by Mr. Rolleston, and to others which the provisions of the said 11th and 13th clauses of Chap. II. of the Order in Council suggested, the Council advised that the following case should be submitted for the opinion of the Attorney and Solicitor-General:—

CASE.

In the Order made by the Queen in Council on the ninth day of March, 1847, respecting the occupation of Crown lands in New South Wales, it is declared that, "within the said colony of New South Wales the rules and regulations comprised in the following chapters shall *henceforth* be observed and have the force and effect of law."

The 11th section of Chapter II. in the said Order declares that "all occupants of Crown lands who shall have been in licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations, &c., and all occupants who have been in licensed occupation of their lands for a shorter period than the term of one year, shall be entitled, upon the expiration of the same term of one year, without having forfeited their respective licences, to demand leases of their respective runs," &c.

1. The right of demanding leases of their runs being, by this last cited section, limited to persons whose licensed occupancy shall have commenced before the coming into effect of the said Order, the Attorney and Solicitor-General are requested to state their opinion whether it is from the date of its passing or of its formal publication by the Governor, or, if from neither of these, from what other date it is that the said Order in Council will be held to have come into effect within the meaning of the said Section 11 of Chapter II.

2. Supposing the Order not to have yet come into effect within the meaning of Section 11 of Chapter II., the Attorney and Solicitor-General are requested to state whether the above-cited declaration in the introductory clause of the Order, that its provisions "shall be observed and have the force of law within the colony *henceforth*," has already deprived the Governor of the power of letting *new* runs otherwise than in the manner prescribed by the 13th section of Chapter II.; or whether the Governor can issue licenses for new runs according to the practice hitherto in use to such persons as may apply for them previously to the Order's coming into effect within the meaning of Section 11, Chapter II.

3. Several occupants of Crown lands beyond the boundaries are still in *unlicensed* occupation of the same, not of their own will, but because the Government has refused to entertain their applications for licenses, in consequence of their being beyond the reach of protection and

control. Should the Government be disposed to regard such persons as having been in permissive, though not in formally licensed occupancy, and as having held their runs not against the will of the Crown, could the Governor legally grant them leases of their runs under the 11th section of Chapter II., or must such runs be treated as new runs, and be let accordingly in the manner prescribed by the 13th section of Chapter II.

No. 6.

Extract from Minute, No. 47/17, *dated August* 27, 1847.

Members present as above.

His Excellency the Governor laid before the Council the opinion of the Crown law officers on the case proposed by the Council at their last meeting with reference to Mr. Commissioner Rolleston's inquiry respecting the course to be pursued with regard to applications for new runs. Appendix C.

The substance of that opinion was :—

1st. That the Order in Council respecting the Crown lands' occupation will come into effect and acquire the force of law in the colony from the date of its formal publication by the Governor, and not earlier.

2nd. That until the publication of the Order the Governor will have the power of granting licences for new runs without reference to the provisions of the 13th section of Chapter II., but that such power should not be exercised except in respect to licences promised by a Government notice before the arrival of the Order in the colony.

3rd. That persons in actual but unlicensed occupation of Crown lands in parts which the protection and control of the Government have not yet been able to reach, cannot be recognized as entitled to leases under Section 11 of Chapter II., but can acquire a title only under the 13th section of Chapter II.

With reference to the expression "licences promised by Government notice," the Attorney-General explained from his place in the Council that the Solicitor-General and himself had in view the notice issued on the 17th June last, which they understood to apply no less to the issue of licences for new runs than to the renewal of licences for runs which had previously been occupied.

The Council, after mature consideration of the subject, advised that a communication to the following effect should be made to Mr. Rolleston, and to the other Commissioners of Crown lands beyond the boundaries.

The law officers of the Crown have advised the Government that Her Majesty's Order in Council of the 9th March, 1847, respecting the occupation of Crown lands in this colony, will come into effect and acquire the force of law in the colony from the date of its formal publication in the Gazette by the Governor, and not earlier; that until that date the Governor has the power of granting licences for new runs, without reference to the provisions of the 13th section of Chapter II., but that such power should not be exercised except in respect to licences promised by a Government notice before the arrival of the Order in the colony.

Acting under this opinion, his Excellency the Governor, with the advice of his Executive Council, has adopted and will observe the following general rule, reserving to himself, however, the power of excepting from its operation any particular case in which there may appear to be special reason for so doing.

Licences for the occupation of new or vacant runs will be granted, upon the recommendation of the Commissioner of the district in which they are situated, on the terms set forth in the Government notice of the 17th June, 1847, to those persons, and to those persons only, whose applications for such runs shall have been received by the Commissioner before the date of the publication of the Order in the Government Gazette.

The Order may be expected to appear in the Government Gazette in the course of a few days, as the law officers have advised that its formal publication ought not to be unnecessarily delayed.

It is to be understood that the above rule does not apply to runs which have hitherto been considered beyond the reach of Government protection and control.

No. 7.

Extract from Minute, No. 47/18, *dated September* 18, 1847.

Members present :—

His Excellency the Governor,
His Excellency the Commander of the Forces,
The Honourable the Colonial Secretary,
The Honourable the Colonial Treasurer.

With reference to the proceedings on the 2nd August last, his Excellency the Governor laid before the Council a letter from the Attorney and Solicitor-General, submitting drafts of the proclamation by which Her Majesty's Order in Council of the 9th March, 1847, should be formally published by the Governor, and of the notice by which it should be accompanied, and submitting also their opinion that the Government can, consistently with the terms of the said Order, reserve from leases demanded thereunder, and can resume during the continuance of a lease, such lands as may be required for sites of towns with adjacent cultivation allotments. Appendix D.

The Council approved of the proclamation and notice submitted by the Attorney and Solicitor-General, but they considered that it would be inexpedient to publish them without the form of application for leases, which the interruption occasioned by the Circuit Court arrangements had prevented those officers from completing. The Council therefore advised that the law officers

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should be requested to prepare and submit the said form with the least possible delay after their return from the circuit, and that the issue of the proclamation should in the meantime be suspended.

Appendix E. 1.

His Excellency the Governor laid before the Council an application from the Superintendent of Port Phillip for instructions respecting a proposed reservation of 640 acres out of a run in the Wimmera district for the establishment of a public house, with the opinion of the law officers as to the competency of the Government to make such a reservation consistently with Her Majesty's Order in Council of the 9th March, 1847.

Appendix. E

In that opinion the law officers stated that the Government could reserve the land in question, and advised that before the issue of leases, the Government should provide similar reserves for the accommodation of the public along every public thoroughfare throughout the unsettled and intermediate districts of the colony.

The Council advised that a copy of the law officers' opinion should be forwarded to the Superintendent for his information and guidance.

No. 8.

Extract from Minute, No. 47/17, *dated August* 27, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Honourable the Colonial Secretary,
The Honourable the Attorney-General,
The Honourable the Colonial Treasurer.

With reference to the proceedings on the 28th June last, when the Council advised that the Deputy Surveyor-General should be instructed (1) to prepare arrangements for the speedy completion of the surveys of the general features in the squatting districts, with a view to the carrying into effect of the provisions of Her Majesty's Order in Council; and (2) to state his opinion as to the increase which should be made in his department, in order to accomplish the surveys necessary for the purposes of that Order with all practicable expedition, his Excellency the Governor, laid before the Council the Deputy Surveyor-General's reply to the letter in which the instructions advised by the Council were conveyed.

Appendix F.

The Deputy Surveyor-General having been called in, explained to the Council that the officers who would be sent into the field under the arrangements proposed by him, would be engaged in the survey of main lines, and in verifying the work of other surveyors, whether employed under contract or attached to the department, who would be required for the detailed surveys of the runs. The detailed surveys would not be conducted, but merely checked by the officers mentioned in his letter, and the cost of those surveys would be additional to the expense of the increased establishment which he proposed.

The further consideration of the Deputy Surveyor-General's proposals was deferred to a futur day.

No. 9.

Extract from Minute, No. 47/18, *dated September* 18, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Honourable the Colonial Secretary,
The Honourable the Colonial Treasurer.

The Council resumed the consideration of the Deputy Surveyor-General's proposals for conducting the survey of the leading features in the squatting districts, as set forth in his letter which was laid before the Council at their meeting on the 27th August last.

The arrangements proposed by the Deputy Surveyor-General involved an increase of expense in his department which the Council could not advise the Government to sanction, not so much on account of its disproportion to the work to be done, as because the public would be subjected to a permanent charge for an object of a merely temporary nature. The Council were of opinion that the surveying operations should be carried on as little as possible by the officers of the survey department, but that they should be performed by contract surveyors, whose connexion with the Government would cease when their work was done, and whose employment would entail upon the public no expense beyond the payment for their work.

It appeared to the Council that the object in view might be most advantageously effected by the adoption of the following plan, viz.:—

That in each "Commissioner's District" there should be stationed a competent officer of the Survey Department, whose business it should be to survey the general features of the country, to fix by triangulation the starting points for the more detailed surveys which would be necessary for the definition of the boundaries of runs, and to connect such points with the general trigonometrical survey of the colony; and also to check the work of contract surveyors to be employed in the lineal measurement of the boundaries of runs.

The Deputy Surveyor-General having been called in, and consulted as to the practicability and expediency of this plan, expressed an opinion favourable to its adoption. He stated that there were a sufficient number of competent surveyors in the department to give effect to the plan. He did not think that one surveyor could undertake the charge of two districts without assistance, as he would be engaged in surveys of his own, as well as in checking those of others;

but that he might do so, if allowed an assistant who would be engaged in details and in mapping whilst the surveyor himself was absent on the duty of checking the contract surveyor's work. Such an assistant as he, (the Deputy Surveyor-General), contemplated, need not be attached to the department as a salaried officer. Many young men could, he stated, be found who would be glad to take the situation for the sake of learning the business without any payment or recognition of a claim on the Government for employment. Such young men would, he thought, be sufficiently useful for the purpose in view. There would be a difficulty in getting the contract surveyors into the field, from their want of means to provide themselves with the requisite equipments; but this difficulty might be obviated by the Government advancing to them the sums necessary for their outlay, upon their giving adequate security.

The Council then advised that the Deputy Surveyor-General should be instructed to bring forward a specific proposition with respect to each "Commissioner's District," for the conduct of the requisite surveys therein, under the following general arrangement, viz,, to each "Commissioner's District," (or to two districts combined, if in any case such an arrangement should be practicable and expedient), there shall be assigned a properly qualified officer of the Survey Department, whose own surveying operations shall be limited to the general features of the country, and to the fixing of principal points in connexion with the general trigonometrical survey of the colony, but whose duty it shall also be to supervise and check the work of the contract surveyors, by whom it is intended that the detailed survey of the boundaries of runs shall be carried out.

With reference to questions put by the Deputy Surveyor-General in respect to instructions given to him under the Council's recommendation, the Council advised, that the following further instructions should be conveyed to that officer and to the Superintendent of Port Phillip.

1. That it would not be necessary to lay down at once, by actual survey on the ground, those lines at stated distances from certain towns and rivers which are to divide the settled from the intermediate or unsettled districts; but that it would be sufficient for present purposes, to lay them down on charts, leaving their actual survey on the ground until the arrival of the time, when they must be fixed for the purpose of defining the boundaries of the holdings on either side of them.

2. That the reserves to be laid out for villages and cultivation lands on the great lines of thoroughfare in the squatting districts should consist of not less than nine nor more than twenty-five square miles.

No. 10.

Extract from Minute, No. 47 / 21, dated October 21, 1847.

Members present:—
His Excellency the Governor,
The Honourable the Colonial Secretary,
The Honourable the Attorney-General,
The Honourable the Colonial Treasurer.

His Excellency the Governor laid before the Council a letter from the Deputy Surveyor-General, submitting the arrangements proposed by him for conducting the survey of the general features of the squatting districts and for checking the boundaries of runs, in accordance with the general plan recommended by the Council on the 18th September last. Appendix G.

The Deputy Surveyor-General was introduced, and having explained more fully the nature of his proposed arrangements, he undertook to prepare a letter setting them forth more specifically.

No. 11.

Extract from Minute, No. 47 / 22, dated October 28, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Honourable the Colonial Secretary,
The Honourable the Attorney-General,
The Honourable the Colonial Treasurer.

His Excellency the Governor laid before the Council, a letter submitted by the Deputy Surveyor-General in pursuance of the verbal instructions given to him by the Council at their meeting on the 21st instant, in which were set forth more specifically the arrangements by which he proposed the surveys requisite for the bringing into effect of Her Majesty's Order in Council of the 9th March, 1847. Appendix H.

The Deputy Surveyor-General being in attendance was introduced, and gave such further explanations as were desired by the Council. He stated that he considered his estimate of the expense attendant on his proposed arrangements to be high, and that it was not likely, therefore, that it would be exceeded.

The general arrangement submitted in the letter before them appearing to the Council to be satisfactory, they advised that it should be approved, and that the Deputy Surveyor-General should be instructed to take immediate measures for sending the surveyors and their parties into the field in the manner proposed by him.

In order to avoid the inconvenience which, in the present scarcity of labour, might arise from the difficulty of procuring or retaining the men required for the surveyor's parties, the Council advised that the Deputy Surveyor-General should be authorised to avail himself of the services of

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cenvicts for this work. The convicts should be selected by a Board consisting of three members, of whom the Deputy Surveyor-General should be one. The Board should be instructed to choose men whose police histories and general character would afford reasonable grounds for believing that their conduct would be good in the service on which it was intended to employ them, and that the public peace and safety would not be endangered thereby. The convicts themselves might be incited to good conduct by the allowance of government tickets or such other indulgences as his Excellency might see fit to bestow, either on their entering upon the employment, or after a certain period of probation.

The Council further advised, that none of the surveyors employed under the arrangement now approved, should be permitted to undertake the measurement of lands for sale in the adjoining settled districts, as suggested in the Deputy Surveyor-General's letter, but that their time and attention should be exclusively devoted to the particular duties assigned to them, and that they should on no account absent themselves from their respective districts without formal leave.

The Deputy Surveyor-General having explained to the Council that the number of draftsmen for whose recall to full-pay authority was asked in the concluding paragraph of his letter, was only three, and that one of them was about to be despatched to the district of Port Phillip; on the Superintendent's requisition, the Council advised that the said draftsmen should be placed on full-pay in accordance with the Deputy Surveyor-General's proposal.

With reference to the proposal in the Deputy Surveyor-General's letter of the 11th October, instant, that a notice calling for tenders for contracts for the surveys of the boundaries of runs, should at once be issued, the Council are of opinion, that such a notice would at present, be premature, as very few demands for leases had been sent in, and the Government were not in a position to describe the runs, of the boundaries of which surveys would be required.

No. 12.

Extract from Minute, No. 47/20, *dated October* 6, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Honourable the Colonial Secretary,
The Honourable the Attorney-General,
The Honourable the Colonial Treasurer.

Appendix I.

With reference to the proceedings on the 28th June last, his Excellency the Governor laid before the Council a letter from the Deputy Surveyor-General with reference to the laying down of lines of thoroughfare and sites of towns in the unsettled and intermediate districts.

As it appeared from this letter, that the Deputy Surveyor-General had not the information on the subject which his evidence of the 15th June last led them to suppose that he possessed, the Council advised that one of the first and principal duties to be undertaken by the officers charged with the feature surveys, should be the selection of leading lines of thoroughfare and sites for towns, with agricultural reserves about them. By leading lines of thoroughfare, the Council did not mean the roads or tracks from one station to another which are now in use, but lines so selected as that they might be confidently expected to continue main roads of the country as its settlement advances. The reserves should be chosen on these lines in such spots as will afford the greatest advantages of situation, soil, building materials, water, and other elements of the prosperity of inland settlements, and at the same time will interfere as little as possible with the improvements of neighbouring occupants.

No. 13.

Extract from Minute, No. 47/21, *dated October* 21, 1847.

Members present:—
His Excellency the Governor,
The Honourable the Colonial Secretary,
The Honourable the Attorney-General,
The Honourable the Colonial Treasurer.

Appendix J 1.

With reference to the proceedings on the 28th June last, his Excellency the Governor laid before the Council a letter from the Superintendent of Port Phillip, transmitting copies of two reports from the surveyor in charge at Melbourne, the first respecting the arrangements to be made for effecting the surveys requisite for the bringing into effect of the Order in Council of the 9th March, 1847, the second respecting the laying down of main lines of thoroughfare and town and cultivation reserves in the unsettled and intermediate districts.

With reference to the former of these two subjects, the Council advised that a copy of the instructions given to the Deputy Surveyor-General, under the Council's advice of the 18th September last, should be forwarded to the Superintendent of Port Phillip for his guidance, and that he should be authorized to make such arrangements on the general principle of those instructions as should appear to him best calculated to effect the requisite surveys with as much expedition and economy as the circumstances would allow.

With reference to the subject of the second letter from the surveyor in charge, the Council advised that a copy of the instructions which would be given to the Deputy Surveyor-General, under the advice contained in their Minute of the 6th October instant, should be forwarded to the Superintendent of Port Phillip, with a request that he will take similar measures for the

laying down of lines of thoroughfare and town and cultivation reserves by the surveyors appointed to conduct the feature surveys in the unsettled and intermediate lands of that district.

With reference to the proceedings of the 2nd of August last, his Excellency the Governor laid before the Council a letter from the Superintendent of Port Phillip respecting the instructions given to him for the marking out of the boundaries of certain of the settled lands, as fixed by the Order in Council of the 9th March, 1847, and respecting the laying out of new counties with a view to their being brought within the class of intermediate lands, under the third section of Chapter I. of the said Order. Appendix J 2.

The Council observed that the points raised in Mr. La Trobe's letter had been met in minutes subsequent to that on which the letter before them was written; but the Council thought it desirable that it should be distinctly pointed out to Mr. La Trobe, that the whole of the country known as Gipps Land having been placed in the class of intermediate lands by the express terms of the Order in Council, it was not within the competency of the local Government to limit the intermediate lands in that direction "to one or more counties of more moderate size," as suggested in his letter.

No. 14.

Extract from Minute, No. 47/20, *dated October* 6, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Hon. the Colonial Secretary,
The Hon. the Attorney-General,
The Hon. the Colonial Treasurer.

His Excellency the Governor having brought under the consideration of the Council the arrangements which it would be necessary to make for the purpose of carrying out the provisions of the 12th and 13th sections of Chapter II. of the Order in Council, respecting the letting of vacant or new runs, the Council advised that the following case should be submitted to the Attorney and Solicitor-General for their opinion, viz.:—In the 12th section of Chapter II. of Her Majesty's Order in Council of the 9th March, 1847, it is provided that "when any run of lands after being occupied shall be forfeited or become vacant, it shall be competent for any person desirous of acquiring a lease of such run of lands to give notice to the Governor of his, her, or their desire to purchase anew the lease of such run of lands; and immediately after such notice the Governor shall direct sealed tenders to be sent in, at such time and place, and in such form, as he shall think fit, by the person giving such notice as aforesaid, and also by such other person (if any) as may be disposed to enter into competition for the said lease," &c.

In the 13th section of the same chapter of the Order, it is provided, that "if any individual be desirous to acquire a new run of land which has never been occupied before, he shall be at liberty to send in a sealed tender at such time and place, and in such form, as may be appointed by the Governor for receiving tenders for new runs," &c.; "and such tenders shall be in all respects dealt with as hereinbefore provided in section 12 of this Order in Council for tenders for runs which have been forfeited or fallen vacant," &c.

With reference to the above cited provisions, the opinion of the Attorney and Solicitor-General is desired on the following questions:—

1. Is it necessary that the Governor's "*directions*" respecting the sending in of tenders for new or vacant runs should in all cases be made by public notice in the Gazette, or will it be sufficient to communicate them in each instance by letter to the original applicant, and to any other person who having obtained a knowledge that the lease of a run has been tendered for, may have signified his desire to enter into competition for it.

2. Supposing that it be not imperative on the Governor to give the said "*direction*" by public notice, can a distinction be made between new and vacated runs by giving a public notice in respect to the latter, and a private notice in respect to the former, which will have the effect of securing to the discoverer of a new run the advantage of a more limited competition than he would be subject to if the sale of the lease thereof were advertised.

No. 15.

Extract from Minute, No. 47/22, *dated October* 28, 1847.

Members present:—
His Excellency the Governor,
His Excellency the Commander of the Forces,
The Hon. the Colonial Secretary,
The Hon. the Attorney-General,
The Hon. the Colonial Treasurer.

His Excellency the Governor laid before the Council the opinion of the Attorney and Solicitor-General on the case proposed by them on the 6th October instant, respecting the mode of notifying the time and place at which tenders for vacant or new runs will be received. Appendix K.

The opinion of the law officers being favourable to such a distinction, the Council advised that public competition should be invited in the case of previously occupied runs which may have fallen vacant and been applied for under Section 12 of Chapter II. of the Order in Council, but not in the case of new runs applied for under the 13th section of Chapter II. of the same Order.

The Council accordingly advised,—

1st. That on the receipt of a notice from any person or persons of his or their desire to pur-

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chase anew the lease of a run which, after having been occupied, may have fallen vacant, his Excellency the Governor shall issue a notice in the Government Gazette, describing the run applied for, and fixing a time and place at which sealed tenders in the prescribed form will be received from the original applicant and any other person desiring to enter into competition with him for the purchase of the lease of the described run.

2ndly. That some stated day in each calendar month shall be fixed and notified by advertisement in the Government Gazette, on which tenders for new runs will be opened; such tenders being in a prescribed form, and addressed to a prescribed officer of the Government.

As a considerable interval must be expected to occur in every case between the acceptance of a tender for a new run and the survey of its boundaries and the valuation of its grazing capabilities, which will be requisite for the preparation of a formal lease and the final adjustment of the rent, it will be necessary that some general rule should be laid down under which during such interval the occupancy of the run may be granted to the successful tenderer, and the receipt of rent secured to the Government. For this purpose the Council advised that the tenders should contain not only "a clear description of the run applied for, and of the boundaries of the same," but also an estimate of its grazing capabilities; that the tenderer should state, that in addition to any premium which he may be disposed to offer, he will be prepared to pay a yearly rent of ten pounds, with two pounds ten shillings added for every thousand sheep, or their equivalent in cattle, above four thousand sheep, or their equivalent in cattle, which the run shall be estimated as capable of carrying; that until the number of sheep or cattle which the run can carry shall have been determined by valuation, he will pay according to his own estimate as given in his tender; and that in the event of the rent so paid under his own estimate proving to be less than that determined by valuation, he will make up the difference on receiving his lease. And the Council advised that the Crown law officers should be instructed to prepare separate forms of tenders for vacated and for new runs in accordance with the general principles above laid down.

It being necessary for the purposes of the tenders in question that his Excellency should determine, as required by the second section of Chapter II. of the Order in Council, the number of cattle which shall be deemed equivalent to a given number of sheep, the Council advised that the scale adopted in July, 1845, should be continued, viz., that 640 head of cattle shall be considered equal to 4000 sheep; and in cases in which the stock upon a run may consist of both sheep and cattle, the amount of the mixed stock, horses being reckoned as cattle, shall be calculated on the principle of allowing 640 cattle to be equal to 4000 sheep.

No. 16.

Extract from Minute, No. 47/24. *Dated November* 11, 1847.

Members present:—

His Excellency the Governor,
The Hon. the Colonial Secretary,
The Hon. the Attorney- General,
The Hon. the Colonial Treasurer.

With reference to the proceedings on the 28th October last, his Excellency the Governor further consulted the Council as to the course which should be followed by the Government in respect to tenders for new runs under the 13th section of Chapter II. of the Order in Council.

The Council thereupon advised that the practice of the Government should be in accordance with the following general rules:—

1. On the tenders being opened by the officers appointed for the purpose, a record shall be made in each case of the name of the highest tenderer, so as to secure to him the lease in the event of the land applied for proving to be available.

2. The description of each run tendered for shall then be forwarded to the Commissioner of the district in which it is situated, with instructions that he shall report whether it comprises any land leased or under promise of lease, or applied for in any other tender, and if it does comprise any such land, that he shall state what should be the run for which it shall be declared competent for the applicant to tender.

3. Until the receipt of the Commissioners' Report the acceptance of the tender shall in every case be deferred.

4. If the Commissioner reports the run to be available, the acceptance of the tender shall be notified to the applicant's agent in Sydney or Melbourne, and the premium and first year's rent shall be required to be paid within sixty days from the date of such notification, in default whereof the run shall be declared by advertisement to be open for selection, and a day for the receipt of fresh tenders for it shall at the same time be announced.

5. In a case in which the boundaries of a run tendered for may require the Commissioners' adjustment, so as to exclude from it any land leased, or under promise of lease, or applied for by another party, the amended description of the run, and the day on which fresh tenders will be received for it must be publicly notified, the interval between such notification and the day on which the tenders will be received being not less than one month.

6. The Commissioner shall further be instructed to report, with reference to any new run applied for, whether it contains any land which it would be desirable to reserve for town or cultivation allotments.

No. 17.

Extracts from Minute No. 47/26. *Dated November* 18, 1847.

Members present:—

His Excellency the Governor,
The Hon. the Colonial Secretary,
The Hon. the Attorney-General,
The Hon. the Colonial Treasurer.

With reference to the proceedings on the 28th October last, his Excellency the Governor informed the Council that he proposed to fix the first Monday in each calendar month as the day on which tenders for new runs would be opened, and that he contemplated the appointment of the undermentioned five officers as a Board for the opening of tenders for vacant and for new runs at Sydney, three of whom would form a quorum, viz.:—The Colonial Secretary, the Colonial Treasurer, the Auditor-General, the Surveyor-General, the Clerk of the Executive Council.

His Excellency the Governor laid before the Council some correspondence which had passed respecting transfers of runs, with an opinion of the Crown law officers on the subject, from which it appeared, that in any case of transfer the Governor could, if he thought fit, allow to the transferree, the privilege of demanding a lease, which the person making the transfer would have been entitled to under the 11th section of Chapter II. of the Order in Council. Appendix L 1 & 2. Appendix L 3.

His Excellency desired the opinion of the Council as to the course which should be taken by the Government in this matter.

After an attentive consideration of the papers before them, the Council advised that the procedure of the Government should be guided by the following general rules:—

1. If any person having a right to demand a lease of a run in his occupancy, under the terms of the 11th section of Chapter II. of the Order in Council, shall have died, or become insolvent, without having exercised such right, the demands of the lease will be received by the Government from his representative, or from any person coming forward on his representative's behalf. The issue of the lease will, however, be suspended in such case until the claimant thereof shall have satisfactorily proved himself to be the legal representative of the deceased or insolvent person; and in the mean time the rent for the run must be regularly paid, in default whereof the run will be held to have become vacant, and the lease of it will be exposed to sale.

2. Subject to the exception above specified, demands for leases of runs under the 11th section of Chapter II. of the Order in Council will be received from those persons only who were the licensed occupants of the runs at the date of the publication of the Order in Council by the Governor; but in consideration of the delay which must necessarily take place in the issue of the leases, any licensed occupant who, after having demanded his lease, may desire to part with his interest in the same, will be allowed to have the lease made out in favour of any person recommended by the Commissioner of the district, on his making written application to that effect to the Colonial Secretary in Sydney, or to the Superintendent of Port Phillip, at Melbourne; such application to bear the applicant's own signature, attested by a magistrate. In this case the original applicant will be debarred from all further claim to the lease, the right to which will be thenceforth held to be vested in the person in whose favour he requested that it should issue.

3. The transfer of portions of existing runs will in no way be allowed by the Government. For each run now recognized as such, but one lease will issue, and any portion of such run which may not be demised to the lessee of the remainder in consequence of his having omitted to include it in his application, will be held to have become vacant, and to be at the disposal of the Government.

(Signed) Francis L. S. Merewether, Clerk of the Council.

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(A.)

Opinion of Attorney and Solicitor-General.

We are disposed to think that the presentation of a copy of the Regulations to the Legislative Council, either by message or through an official Member, would not be such a "Publication" as is contemplated by the 11th Section of the second Chapter of the Order; but as this point may not be free from doubt, especially as to communication by message, we think the safer course will be to let the Order be laid on the table of the House by an official Member, who should state that it is presented only for the information of the Members, and that it is not to be considered as published within the meaning of the section referred to.

We conceive that the publication should be by proclamation in the Government *Gazette*, and that at the same time all parties concerned should be warned that applications for leases under the Regulations will be received through some stated official channel, and perhaps in a given form, within the periods therein prescribed, dating from the first appearance of the Order in the *Gazette*.

We beg leave to recommend that such publication should, as closely as conveniently may be, follow the presentation of the Orders to the Legislative body; and in reference to this recommendation, we take the liberty of respectfully expressing our very serious doubts whether such considerations as are pointed at in the case before us would justify his Excellency the Governor in withholding the Order in Council from publication. We regard the Order as public property, which should be communicated to the colonial public with all reasonable dispatch, and as conferring important rights upon an extensive class of Her Majesty's subjects, which it is not within his Excellency's province to withhold or delay.

We would not, however, be understood as going the length of stating it to be our opinion that the Governor would, under *no* circumstances be justified in delaying the publication, but we think such postponement would rest on the Governor's own responsibility, and that it could not be justified, except by urgent reasons of state, such as we do not yet perceive to exist.

We are of opinion that the licensed occupiers of Crown Lands are not entitled to have leases issued to them within six months after the publication of the Orders, and therefore (as well as on other grounds probably), we think that the Government would incur no liability to parties entitled to demand leases, from the impossibility of issuing them within the period mentioned.

The 11th Section of Chapter II. must be read in connexion with all other portions of the Order, *e. g.* with the 1st Section of the same Chapter, which authorises the Governor to grant leases "to *such persons as he shall think fit*," and for such terms, "*not exceeding* 14 years," as he shall determine; with Sections 3 and 4 of Chapter I. and Chapter III., which leave the classification of lands as intermediate and unsettled districts, open till 31st December, 1848, and therefore makes the extent of term to be granted to depend upon a point which may not have been determined at the expiration of the six months; and with Sections 2 and 3 of Chapter II., which make the *rent* unascertainable, except by a matter which would of course be subsequent to the demand of a lease.

Reading the 11th clause thus, in connexion with others, or even taking it by itself, we are of opinion that the utmost effect which can be given to it is, that licensed occupiers shall be entitled to leases of yet unascertained duration, provided their claims are put in within the prescribed term; and we think the Governor is no more bound to issue leases at the expiration of the six months than he is to issue them immediately on application at any time *within* that period. Parties who do not claim or "demand" within the specified time, will lose that peremptory right to a lease of some extent, which seems to be here intended to be given (somewhat inconsistently perhaps with the terms of the 1st Sec-

tion), but it by no means follows that those who do claim in due course, are peremptorily entitled to a lease comprising all the land they may have included in their applications, or for any particular term, or to be issued at any particular time. On the contrary, we think the claims will necessarily have to be considered after the six months, and that various preliminaries will be indispensable before the issuing of any lease; and that the Government can not only not be expected to perform that which is characterised as an "impossibility," but that no more can be required than the use of reasonable diligence, and the appliance of reasonably sufficient means for putting itself, as early as conveniently can be, in a position to issue the leases claimed to such persons as may be found entitled to them."

(Signed) John Henry Plunkett, Attorney-General.
W. H. Manning, Solicitor-General.

August 2, 1847.

(No. 47/625.) (B.)

Colonial Treasurer to Colonial Secretary.

Revenue Branch, Colonial Treasury,
Sydney, July 12, 1847.

Sir,

I have the honour to enclose, for the consideration of His Excellency the Governor, a copy of a letter received this day from Mr. Commissioner Rolleston, requesting he may be informed whether he is to continue in the usual way to recommend applicants for licences to depasture unoccupied Crown lands.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) C. D. Riddell.

Enclosure to the foregoing.

Crown Lands' Office,
Darling Downs, June 30, 1847.

Sir,

I do myself the honour to acknowledge the receipt of your letter of the 15th instant, calling for my annual return of persons to be licensed.

I beg to inform you that this return accompanied my letter of the 9th instant.

I have, further, the honour to request that you will inform me whether I am to continue in the usual way to recommend applicants for licences to depasture unoccupied Crown lands.

I have, &c.,

The Hon. the Colonial Treasurer, Sydney. (Signed) Chris. Rolleston, Commissioner.

(C.)

Opinion of Attorney and Solicitor-General.

1. We are of opinion, that for the purposes contemplated by the 11th section of cap. 2 of the Regulations, Her Majesty's Order in Council will "come into effect" on formal promulgation in this colony, and not previously.

The rights intended to be conferred by that section will not be acquired until "publication of the Order in Council by the Governor," from which it appears to us to follow clearly, that the order cannot *pro tanto*, "come into effect" until then, whatever opinion might be entertained upon the more general question, whether the regulations have earlier acquired "the force and effect of law."

In arriving at this conclusion, we have taken into consideration a variety of passages in the regulations, of which some certainly appear to favour a different view, whilst others have led with greater force to that which we have stated. Without going at large into our reasons for the opinion given, we would refer more particularly to the following expressions which occur in section 11 of cap. 2, that is to say, "*shall have been*" in licensed "occupation," and "when this Order in Council *shall* come into effect," expressions which would be quite inappropriate if this regulation came into effect at the instant of time at which it was passed.

Upon the more general question, as to when the Order in Council became law? we beg leave to observe, that this Order could become law only by force of the Act of Parliament, and that as Her Majesty in Council had not, or was not acting in the exercise of any inherent authority for such purpose, we think the terms of the Act of Parliament should be looked to with reference to this question, in preference to those of the Order in Council. The Act says, in section 6, that the Order in Council "shall have the force and effect of law in the colonies aforesaid;" and by section 13 it enacts, "that this Act shall take effect, and have the force of law in each of the said colonies, from and after a day to be specified by the Governor of each of such colonies, in some proclamation to be issued by him for that purpose;" and it appears to us, that Her Majesty's order "that the rules and regulations comprised therein, shall *henceforth* be observed and have the force and effect of law," is not only unsupported by sufficient authority in that behalf, but is irreconcileable with the paramount directions of the Act of Parliament. The maxim "*accessorium non ducit sed sequitur suum principale*" applies.

The expression in the 6th section of the Act, that the Order in Council shall have the force and effect of law "in the colonies" (and a corresponding one in the Order) of itself, seems necessarily to imply that their arrival (at least) within the colonies shall precede their coming into operation there. But we think the 13th section is still stronger in support of our view, because the utmost that can be said of the regulations is, that they are virtually imported into the Act of Parliament, and as a branch of the Act, they would require a promulgation by the Governor, or, as an "accessary" to it, they should follow the rule which is applied to the "principal." We may also refer upon this head to the subject of the regulations, namely, land in a distant colony, and to the general nature of the provisions, which provide for things to be done under directions which could not be obeyed until known.

2. From the opinion which we have already expressed upon the more general question, which is noticed in our reply to the first question submitted to us, it follows that we cannot advise that the Order

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n Council has already deprived the Governor of the power of letting new runs otherwise than in the manner prescribed by the 13th section of cap. 2; but we nevertheless recommend that such power, if possessed, should not be exercised: section 11 relates to rights to be required by present occupants from the date of publication; and, therefore, publication is the hinging point upon which those rights depend; but section 13 may rather be regarded as directory on the Governor, whose acts in obedience to the order must precede the inception of an entirely new title. He might therefore be expected to "observe" the regulations, from the time when his official receipt of the Order in Council put him in possession of Her Majesty's command. Section 13 only provides for leases, but we think that annual licences should be governed by the same rule, because they would interfere, although temporarily only, with the right to tender for, and the duty of giving leases under the provisions of this regulation. Any licences, however, which have been promised by a Government notice, before the arrival of the Order in Council, ought in our opinion to be issued, because the regulations could not "be observed within the colony" until they were known, and that which ought to be done by virtue of any valid previous promise should be considered as done before the Order in Council arrived.

3. We are of opinion, that such persons as are mentioned in the third question submitted to us cannot be recognized as entitled to leases under Clause 11, but can acquire a title only under the 13th section of cap. 2. The former section only gives the right to "licensed" occupiers, and the term "licensed," must in our opinion be confined to actual licences under the 17th section of the Act 5 and 6 Vict. cap. 36, and the squatting regulations of the Colonial Government in force at the time of passing the recent Order in Council, or then capable of being known to Her Majesty's advisers. Section 13 of the Order in Council does not, it is true, specifically refer to occupations under licences, but we think the expression "which has never been occupied before," must be taken to relate to occupations which the Crown has not recognized according to the provisions of the law in that behalf. Had the Government been under a positive duty to grant licences to the parties mentioned upon their applications, we should have been disposed to regard them as virtually licenced, but it clearly was not under any such duty; and, therefore, we think the lands occupied without licence in parts, which the Government protection and control have not yet been able to reach, must be considered vacant as against the Crown, and within the meaning of the 13th section of Chap. II.

(Signed) J. H. Plunkett, Attorney-General.
W. M. Manning, Solicitor-General.

(D.)

Attorney and Solicitor-General to Colonial Secretary.

Sir, Attorney-General's Office, August 28, 1847.

In reply to your letter of the 23rd instant, No. 47/589, upon the subject of regulating the occupation of Crown lands in this colony, we have the honour to state, that we have prepared and transmit herewith a form of proclamation to be used by His Excellency the Governor in publishing the orders, and also a draft of a notice to accompany such proclamation, and which we submit for the consideration of his Excellency.

We have not yet prepared the form of application, as it will require more consideration than we can give before one of us (the Attorney-General) is obliged to leave for the circuit; but it will be seen that in the draft notice, reference is made to a printed form, to be prepared and distributed. This will give us more time for consideration, and enable us to correct the form as it passes through the hands of the printer.

We will give our attention from time to time to the preparation of a form of instrument, by which the Governor shall convey leases of lands under the Orders in Council; but this will require the utmost care and deliberation.

Upon the two points on which our opinion is particularly called for in your letter now under reply, we have the honour to report that:—1st. We are of opinion that the Government can, consistently with the terms of the Orders in Council, reserve from leases demanded thereunder, and can resume during the continuance of a lease, such lands as may be required for sites of towns, with adjacent cultivation allotments.

2nd. Although we have not yet been able to concur in our views upon the second question put by you, as an abstract proposition of law, we are agreed in thinking that, for the purpose of the applications for leases of waste lands of the Crown beyond the settled districts, and still more so for the purpose of the leases themselves, there ought to be such an accuracy of description, by reference to leading geographical features, and marked or determined boundary lines, as would enable a competent surveyor to distinguish the particular lands from all others, and inform the Government of the estimated extent and capability of the respective runs demanded and leased.

We have, &c.,

(Signed) J. H. Plunkett, Attorney-General.
W. M. Manning, Solicitor-General.

Draft Form of Proclamation referred to.

By his Excellency Sir Charles Augustus FitzRoy, &c. &c.

I, Sir Charles Augustus FitzRoy, the Governor aforesaid, do, by this my Proclamation, publicly notify and declare, that Her Most Gracious Majesty the Queen has been pleased, by the Order in Council hereto annexed, to make and establish the rules and regulations therein contained, for regulating the occupation of the waste lands of the Crown in the colony of New South Wales; and I do hereby notify and proclaim, that such rules and regulations shall and will come into effect within the said colony on and from the date of this my proclamation thereof.

Given under my hand and seal, at Government House, Sydney, this day of in the year of Our Lord One thousand eight hundred and forty-seven, and in the eleventh year of Her Majesty's reign.

Draft Form of Notice referred to.

Colonial Secretary's Office, Sydney, October 7, 1847.

Leases of Crown Lands beyond the settled Districts.

1. His Excellency the Governor, in referrence to his proclamation of this date, publishing Her Majesty's Order in Council, regulating the occupation of waste lands of the Crown within this colony, deems it proper to caution the licensed occupants of waste lands of the Crown beyond the settled districts, that the rights conferred on them by the 11th section of Cap. II. of the Regulations must be exercised within the periods in that section prescribed, by relation to the date of the proclamation above referred to, publishing the said Order in Council.

2. The applications must be lodged in the office of the Colonial Secretary in Sydney, if the lands for which the lease is applied for be situated within the Sydney or Middle District; or of his Honour the Superintendent at Melbourne, if within the Southern, or Port Phillip District; and, in order to preserve uniformity, the applicants will be required to use the printed forms, copies of which may be obtained from the Commissioners of Crown Lands beyond the Settled Districts, as well as at the office of the Superintendent at Melbourne, and at this office.

3. All such applications must set forth the names and clear descriptions of the runs applied for, and of the boundaries of the same, as prescribed, with respect to new runs, by the 13th section of Chap. II. of the Order in Council. In such descriptions it will be necessary to refer to leading geographical features, and marked or determined boundary lines, as well as to the names of the occupants of adjacent lands, and to give the length and general direction of the several boundary lines with reasonable certainty; and also to state the supposed extent of the runs, and the number of sheep, or equivalent number of cattle, which each run may be estimated as capable of carrying.

4. An abstract of all applications received will, from time to time, be published in the New South Wales Government Gazette, or Port Phillip Government Gazette, for the information of all parties concerned.

5. Persons who object to the claims of others, either wholly or in part, as comprising lands, to the lease of which they may conceive themselves entitled, are recommended to lodge in the office of the Colonial Secretary, or Superintendent of Port Phillip, caveats referring to such claims, and specifying the lands to which their objections extend, and the grounds on which they prefer their claims to the same.

6. It will be impossible that the issue of leases should take place immediately on demands being made for them. In many cases the Government may not be able until the end of the year 1848 to determine whether the particular runs applied for will be included in the intermediate or unsettled districts, and in all cases it will be necessary to consider and decide on the claims of applicants, to verify the descriptions of runs, and to estimate the number of sheep or cattle which each run will carry, and the rent accordingly to be paid. His Excellency, however, desires at the same time to intimate, that all practicable dispatch will be used, for the purpose of putting the occupants of Crown lands in possession of the leases to which they may be entitled under Her Majesty's regulations.

By his Excellency's command.

47/728. (E 1.)

Superintendent of Port Phillip to Colonial Secretary.

Sir, Superintendent's Office, Melbourne, June 30, 1847.

It is my duty to forward to you, for his Excellency's perusal, the enclosed copy of a communication which I have received from the Crown Commissioner of the Wimmera District, pointing out the circumstances attending a proposed change of site for a public-house in that part of my district, from the location originally selected on the confines of the runs of Mr. J. A. Cameron and Mr. G. W. T. Clarke, to another point of the main road, which it appears traverses within three miles of the head station of the latter, and, as it would seem, wholly upon his run, and requesting instructions as to the course which it may be proper to pursue towards the person who holds a licence for the run on which the public-house is situated. 24th June, 1847.

I beg leave to observe, that formerly, as it was always held by the Government, that the granting of licences for the occupation of Crown lands without the boundaries, under the provisions of the Act 2 Victoria, No. 27, gave the holders a right to the use of such land for depasturing purposes only, and did not invalidate the right of the Crown to devote spots within that boundary to purposes connected with the public advantage, no difficulty would have stood in the way of the Commissioners sanctioning the erection of a public-house, and the allotment of a small portion of adjoining land, in any spot in the district beyond the boundaries of location; but, at the present time, it may be well to inquire what is the proper course to pursue, and I have to request that you will be so good as to furnish me with his Excellency's views on the subject.

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) C. J. Latrobe.

Enclosure referred to.

Sir, Melbourne, June 24, 1847.

I do myself the honour to report, that some time last year Mr. Powlett, the Commissioner of the Western Port District, within which a part of the Wimmera District was then included, granted a licence to one "Mathew Harland" for one square mile of land situated on the boundary of the runs of J. A. Cameron and G. W. T. Clerke,* for the purpose of erecting a public-house.

On Harland making application, in May last, to the magistrates at the Pyrenees for a publican's licence, the Bench considered the site proposed to be too near the present inn at Burn Bank, and suggested an alteration to some distance further down the Wimmera.

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* Should be W. J. T. Clarke.

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I was present on the Bench, and being of opinion that the site first proposed was not convenient, I informed Harland that a section in lieu of that selected for him by Mr. Powlett, might be given him at a more advantageous point of the road, and that I would inspect the locality, in order to determine the spot he was to have.

This is *within* Clerke's run, but not less than three miles from his head station.

I conceived the course to pursue in such case to be perfectly clear, where the application for a public-house was signed by almost every resident of the district, and the want of one admitted by all except perhaps Clerke.

On the renewal of Clerke's licence for 1847–8, I proposed, therefore, to give him notice that the run for which his licence would be renewed would be for the same extent as heretofore, *less* ———— ————, required for purposes of the public.

As I am not aware if any similar case has yet occurred which can be referred to, I beg to submit the above to your Honour for the approval of his Excellency the Governor, with a view to my future guidance.

I beg further to state, that Harland has commenced to prepare and convey materials for his house. That Clerke's run is estimated to contain 125 square miles, through which the main road, and one branching from it, runs for upwards of 20 miles, and that Clerke, being a resident in Van Diemen's Land, his superintendent was called in before the Bench by me, and questioned, in order that as little inconvenience should be caused by Clerke as due regard to the convenience of the public would permit.

I have, &c.,

His Honour the Superintendent, Port Phillip. (Signed) W. H. Wright, Commissioner of Crown Lands.

47/5315. Memorandum of Colonial Secretary's Office upon the foregoing.

A man, named Harland, was the holder of a publican's licence in the Wimmera district, and occupied a square mile of land. On applying to the Bench of Magistrates at the Pyrenees for a renewal of his licence, the magistrates (of whom the Crown Commissioner was one), suggested, on public grounds, that he should remove to another locality.

The spot chosen by the Commissioner (Mr. Wright) is on the run of another licensed squatter, Mr. Clarke. The Commissioner proposes, therefore, when Mr. Clarke's licence comes to *be renewed.* to reserve one square mile out of 125 square miles, for the site of the public-house; but before doing so, he submits the case for the instructions of Mr. Latrobe, who refers it to his Excellency the Governor.

On the distinct understanding that the public convenience requires such a change of site, it is conceived that the Commissioner would be justified in acting as above proposed; nor do I perceive any grounds for thinking, as Mr. Latrobe appears to do, that the expiry of the Squatting Act in any way qualifies the right of the Crown to withhold from licence any portion of its own lands.

But in the selection of the future site on the run of Mr. Clarke, that gentleman's interests should be consulted, so far as they are not incompatible with the public interests; and secondly, the quantity of land proposed to be assigned to Harland, although but a very small proportion of the entire run (1 out of 125) appears larger than is absolutely necessary for the purposes of an inn.

26 July.

Memorandum of the Clerk of the Executive Council on the foregoing.

Before bringing this case under the consideration of the Executive Council, it may be desirable that the opinion of the Law Officers should be taken on the question whether the reservation of 640 acres, for the establishment of a public-house, out of a run of which Mr. Clarke will be entitled under the new Order in Council to demand a lease, can be made consistently with the provisions of the said Order.

Board of Council, August 5, 1847. (Signed) Francis L. S. Merewether.

(E 2.)

Attorney and Solicitor-General to Colonial Secretary.

Sir, Attorney-General's Office, August 21, 1847.

In reply to your letter of the 12th instant, transmitting the enclosed papers respecting the proposed reservation of 640 acres of land for the establishment of an inn, out of a run of 125 square miles, of which Mr. Clarke, the present occupant, will be entitled under the new Order in Council to demand a lease, and requesting, by direction of his Excellency the Governor, we will state whether the reservation in question can be made consistently with the provisions of the said Order:—

We have the honour to state, that we think it clear that the Government may except out of the lease to Mr. Clarke any such land as may be required for the convenience of the public; and that as the main road runs for 20 miles through the land occupied by that gentleman, the public convenience must necessarily require such an exception to be made. We do not, however, see that 640 acres can be needed for the purpose of establishing an inn only, nor does it appear to us that an inn will afford everything that the public convenience will demand; and we therefore advise that a reserve or reserves be made for general public purposes, of which the establishment of an inn may be one and the principal at present.

It will be right that the Government should provide for the accommodation of the public reserves along every public thoroughfare throughout the colony; and, as far as conveniently may be, this should be done before the issue of leases, in preference to doing it subsequently by virtue of any power contained in the lease or conferred by the Land Regulations.

We have, &c.,

The Honourable the Colonial Secretary. (Signed) John H. Plunkett, Attorney-General. W. M. Manning, Solicitor-General.

No. 47/241.

(F.)

NEW SOUTH WALES.

DEPUTY SURVEYOR-GENERAL to COLONIAL SECRETARY.

SIR, Surveyor-General's Office, Sydney, August, 1847.

I have the honour to acknowledge the receipt, by your letter, No. 47/292, dated the 26th ultimo, of the Governor's instructions that I should propose arrangements for the speedy completion of the surveys of the general features in the squatting districts, for the purpose of giving effect to the Order of Her Majesty in Council, with respect to the occupation of Crown lands beyond the boundaries; and I have accordingly the honour, under the First Article of the Instructions, to propose that nearly the whole strength of experienced surveyors in this department should be so distributed along the boundaries as to form a cordon of survey in the neighbourhood or within reach of the principal points already established by previous survey.

With the completion of the strength which I propose to render effective by submitting for his Excellency's favourable consideration the names of some assistant surveyors who by length of service, talent, and assiduity, have earned a title to promotion; my first object is to run parallels of latitude of half degrees, the perpendiculars to which will of course be meridians. These great lines will form the frame work of the whole survey, and will embrace all the points that it will be requisite to fix by minor operations for the purpose of completing the details, upon which it will be my duty to issue full instructions to each surveyor having charge of a district or system of great lines, and to propose such other arrangements as circumstances may suggest with respect to the expediency of recourse to contracts.

Under the second article of his Excellency's instructions I do myself the honour to append a return of the present establishment, the surveying force of which I propose should be augmented by the following promotions:—

To be Surveyors on full-pay,—to commence from the date of commencing operations at their respective stations in the field:—

Licensed Surveyor Larmer,
" Davidson,
Assistant Surveyor Darke,
" Burnett,
" Galloway,
" Kennedy,

(on his return from his present expedition).

To be Assistant Surveyors,—pay to commence as in the case of the surveyors:—

Mr. Ormsby, whose works in New Zealand have been before the Government, and who is fully competent to perform every duty required in surveying;

Mr. Draftsman Gordon;

Mr. Draftsman Ryan;

Mr. Draftsman M'Lean;

Mr. Burrows (who was formerly employed in surveying by contract at the Clarence River);

Mr. Draftsman Nutt, who has been for a long time on half-pay, and is now anxious to be placed in activity.

These promotions (should his Excellency be pleased to make them) will occasiontwo vacancies in the drawing branch of the department at head-quarters, to fill which there are two draftsmen, Mr. Lane and Mr. Bayley, now on half-pay; and I am sorry to be obliged to add that the services of the latter have hitherto been but of little value.

The increased expense which the proposed augmentation would involve would be about nine thousand five hundred pounds per annum, and even with this increase two difficulties present themselves, which (if not insurmountable) are of such a nature as to render all geodesical operations extremely tedious—I allude to questions of commissariat supplies and labourers to form the requisite parties to accompany the surveyors in the field. To obviate the first, a perpetual ambulance would appear indispensable, as the supplies from the squatters' stations must be very precarious, many of the stations being only in the course of formation, and those already established being frequently dependent on the more settled parts of the country for their ordinary supply of the first essentials of life. As an instrnce of this I may be permitted to mention that, on my return from the northward in December last, I was informed that at one very large establishment only fifteen pounds of flour remained in store awaiting the arrival of drays, then detained by the floods. It might therefore be necessary, with a view to facilitate our operations, that depôts exclusively for the use of the Government should be established in each district. With respect to the question of labour, I may observe, that although in ordinary cases a small survey may be conducted with the assistance of three men only, yet provision must be made in more extended works for a sufficient force to remove such obstacles as impede the vision. Cases will frequently occur in which the removal of a very small branch of a tree will occasion considerable delay; and it is well known that the principal points selected for taking an horizon of angles being chiefly the best defined tops of mountains, are almost invariably covered with timber or brushwood. To organize proper parties with free labourers at the present rate of wages would be so expensive that I could hardly hope it would be sanctioned as a permanent measure; and although it is possible that in course of time native blacks might be induced to render themselves permanently useful in our parties, still we must not be wholly dependent on them. I have, therefore, no alternative but to express my regret that hitherto I am unable to devise any other expedient to meet this difficulty than the engaging, for a limited period for the Government, such number of men as may be required to form parties of moderate strength, trusting to the influx of emigrants for the completion of the arrangements.

Upon the Third Article of the Instructions, I do not apprehend any considerable difficulty, but shall have the honour shortly to submit for the consideration of the Government a general system of thoroughfares and sites of towns with a sufficient surrounding reserve to each to meet the views in contemplation.

I have, &c.,
(Signed) S. A. PERRY,
Deputy-Surveyor-General.

The Honourable the Colonial Secretary.

Memo. of present Establishment.

	£.	s.	d.
Salaries, say	6,311	12	0
Allowances	1,380	0	0
Provisions	503	12	6
Forage	425	7	11
Contingencies, including Surveys	300	0	0
Total	8,920	12	5

Memo. of proposed Establishment.

	£.	s.	d.
Salaries, say	7,901	0	0
Allowances:—			
Equipments	1,700	0	0
Men	2,550	0	0
Provisions	4,380	0	0
Forage	1,642	0	0
Contingencies	250	0	0
Total	18,423	0	0

NEW SOUTH WALES.

(No. 47/325.) (G.)

DEPUTY SURVEYOR-GENERAL to COLONIAL SECRETARY.

Surveyor-General's Office, Sydney, October 11, 1847.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 1st instant, No. 47/377, communicating to me the intention of the Government as to the course to be pursued for the survey of the boundaries of Runs in the unsettled and intermediate districts, and desiring that I will bring forward a specific proposition so as to give effect to such intention; and I have accordingly the honour to propose that the field parties of the surveyors and assistant surveyors, named in the margin, should be completed to the effective strength of six men each, the same arrangement being applicable to each district, and with sufficient means of transport to enable them to carry provisions for three months; arrangements being made by contract, with some of the bordering settlers, for ensuring a constant supply, so as to prevent the necessity for sending the men back to the towns. As it appears from the representations that have reached me, that in some districts the surveyors experience considerable difficulty in keeping the parties together, owing to the fluctuating rate of wages, it would seem advisable that the number of men required for the whole service should be engaged in Sydney or Parramatta, and bound by indentures to continue their services for three years. Under such an arrangement, the parties could at once take the field, and be in a position to verify the work of the contractors; and I would further beg leave to propose, that an advertisement for tenders, to survey the boundaries of Runs, should appear without loss of time; the districts for which surveys will be required, are as follows, viz.:—*Monera*, *Murrumbidgee*, *Lachlan*, *Wellington*, *Darling* (Supplementary), *Bligh*, *Liverpool Plains* (North and South), *New England*, *M'Leay*, *Clarence*, *Darling Downs* (East and West), and *Moreton*. This comprises all the occupied country, extending to the River Darling, at its confluence with the Murray, and to the Culgoa and Ballone rivers to the northward, which is assumed to extend only to latitude 26°, though I believe there are many stations beyond this parallel, and is of course exclusive of Port Phillip, where I presume the requisite arrangements will be made under the direction of his Honour the Superintendent. Enclosed herewith is the form of advertisement for tenders which I propose should be inserted in the Government Gazette at the earliest possible period. As the field-work in its progress will doubtless entail a proportionate increase of work in the office, I beg leave to recommend that Mr. Draftsman *M'Lean* may be allowed the increase to which he would have been entitled under the system prior to 1842, and that Mr. *Nutt* and Mr. *Lane*, now on half-pay, be placed in activity.

Surveyors White and Townsend, Assistant-Surveyors Larmer, Davidson, Darke, Burnett, Galloway, Gormans, and M'Cabe.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) S. A. PERRY, Deputy Surveyor General.

(No. 47/345.) (H.)

DEPUTY SURVEYOR-GENERAL to COLONIAL SECRETARY.

Surveyor-General's Office, Sydney, October 22, 1847.

SIR,

REFERRING to my letter of the 11th instant, in which I mentioned the establishment that I considered requisite to carry out the intentions of the Government, relative to the survey of licensed Runs, with a view to the issue of leases, according to the arrangement communicated to me by your letter of the 1st instant, No. 47/377, I have now the honour further to propose, that the distribution of the several surveyors of this department, exercising a supervision over the surveyors working by contract in the measurement of runs, shall be as follows, viz.:—

In the district of

1. Moreton and Darling Downs	Mr. Burnett.
2. New England and Gwyder	Mr. Galloway.
3. Clarence and M'Leay	Mr. Darke.
4. Liverpool Plains	Mr. Gorman.
5. Bligh	Mr. White.
6. Wellington	Mr. Davidson.
7. Darling	Mr. MacCabe.
8. Lachlan	Mr. Larmer.
9. Murrumbidgee and Movaroo	Mr. Townsend.

There will then remain available for measurements for purchase within the settled districts,—Mr. Shove, for Cumberland and Camden; Mr. Warner, for Brisbane and environs. Mr. Davidson, having a manageable district, has expressed his willingness to perform such measurements as may be required in the Bathurst country, and as the district of Bligh is not very extensive, a similar arrangement may be made with Mr. White. The small measurements in the immediate neighbourhood of Sydney can be performed by Mr. Gordon, and by such arrangement any further recourse to contract may be avoided. In proposing so extensive a distribution, I would beg leave to point out that its execution will necessarily involve a certain amount of expense beyond what would be requisite for the ordinary work of a surveyor, in a limited and thickly-inhabited district.

	£.	s.	d.
The probable expenses would be, allowance in lieu of equipment for nine parties: at 100*l.* each, per annum, would be	900	0	0
Pay of nine surveyors, at an average of 350*l.* each per annum	3,150	0	0
Wages of 54 men, 6 in each party, at 20*l.* per annum each	1,080	0	0
Rations for 63 persons, viz., 1 officer and 6 men in each party, at a daily expense of 1*s.* 3*d.* each	1,437	3	9
Forage for one saddle and two draft horses, attached to each party. at 2*s.* per ration, for the latter to be drawn only when necesrary	985	10	0
Total expense of this contingency	7,552	13	9

Say seven thousand five hundred and fifty-two pounds thirteen shillings and nine pence.

As the duties of the several departmental surveyors will be of a highly responsible nature, I trust I may venture to hope that, besides restoring the two remaining licensed surveyors, Messrs. Larmer and Davidson, to their former position on full pay, his Excellency will permit me to hold out to those in the present grade of Assistant Surveyor, a prospect of promotion to the rank and pay of Surveyor, in the event of their commencing satisfactorily the important work on which it is proposed they shall be engaged, and that I may also be authorised to recall to full pay, such of the draftsmen as may be required in the office.

I have, &c.,

The Honourable the Colonial Secretary. (Signed) S. A. Perry, Deputy Surveyor-General.

(No. 47/318.) (I.)

Deputy Surveyor-General to Colonial Secretary.

Surveyor-General's Office, Sydney,
September 30, 1847.

Sir,

Understanding that his Excellency the Governor is desirous of knowing what progress is making, in reference to that part of the instructions conveyed to me by your letter No. 47/292, of July 26th, which relate to the laying down " of lines of thoroughfare and sites of towns in *all* the country at present occupied by licensed squatters,"

I have the honour to state, for the information of his Excellency the Governor, that there appears to be some misapprehension with respect to the laying down of general lines of thoroughfare, inasmuch as it will not be possible, without a reconnoissance to determine such lines, even in a general way, in those districts where the surveyors have never been; or even in others of which we have only imperfect sketches, but as far as my information extends this shall be done.

The map of the Moneroo district being now completed, I have considered it proper to lay before his Excellency a statement of what has been effected in reference to the instructions above alluded to.

In the first place I have to observe, that some twelvemonths back I was enabled so far to carry out the general instructions for the division of the territory, and the making of reserves, as to mark very generally throughout the Moneroo district, reserves for towns and villages varying in extent from 320 to about 640 acres. On this map is likewise exhibited all " the general lines of thoroughfare " at present in use. And I have now, in compliance with the decision of the Honourable the Executive Council, as communicated to me verbally, marked as reserves around the sites for towns, an extent varying from nine to twenty-five square miles for the suburban and cultivation allotments, in all such places as were considered to be suitable for such purposes; and in order that his Excellency may be aware of the manner in which in this one district the stations and improvements of the squatters will be affected, I beg to enclose a tabular statement showing the names of the places, the names of the squatters, and the nature of the improvements and buildings thereby embraced.

With reference to the reserves for villages made some time since, as before alluded to, I conclude that, although it be intended to exclude from the leases the large reserves now made, in accordance with the instructions of the Council, these small reserves may be included in the leases; but their being reserves, may perhaps be considered as a sufficient obstacle to the purchase by the lessees, as provided for by the 6th, 7th, and 8th sections of the Second Chapter of the Land Orders.

Then, as regards the roads, perhaps I may be permitted to observe that in the unsettled districts their course is ever varying; that there can be no special exemption by the aid of description in the leases, but that, as some general clause for the preservation of the thoroughfares and rights of way will be required in the leases, so it is not of immediate importance that these lines should be laid down on the maps.

I am preparing, from the various sketches and data, such maps of the unsurveyed districts as will admit of my laying down a few reserves, so as to give to the arrangement something of official authority, but that such reserves must be made without the aid of section lines, and other such detailed information as the Moneroo Survey presents, I may observe that I have already, in the Moreton Bay district, a considerable extent of which is surveyed, marked out reserves of from 9 to 25 miles square, as required. The maps which I contemplate preparing are—

1st. A sketch embracing the Darling Downs, and extending from thence westerly to the FitzRoy Downs.

2nd. A sketch embracing the New England district, and extending westerly as far as Fort Bourke, so as to include the districts of Gwyder, Liverpool Plains, and Bligh.

3rd. A sketch of the southern part of the Wellington district, to be founded on Mr. Musgrave's survey.

4th. A sketch to embrace the Lachlan and Murrumbidgee districts, and so much of the Lower Darling as may be necessary.

These sketches will not, of course, show reserves for villages which, according to the instructions for the division of the territory, should be taken out of every 25 or 30 square miles, in fact, out of every parish; but I have considered it possible, that from the surveys of the runs which it will be necessary to make in order to obtain descriptions for insertion in the leases, sufficient information may be gleaned to make these reserves; in fact, that the surveys of the runs will go far to make out a general survey of the unsettled districts.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) S. A. Perry,
Deputy Surveyor-General.

NEW SOUTH WALES.

Enclosure in Deputy Surveyor-General's Letter of September 30, 1847, No. 47/318.

Name of Place.	No. of Sections Reserved.	Names of Occupiers (if any).	Nature of Improvements.
Micaligo . .	Nine . .	F. N. Rossi	There are not any improvements on this land beyond a sheep-station hut.
Cooma . . .	Nine . .	James Kirwan and William Bradley.	This includes the Commissioner of Crown Lands' residence, also the church and parsonage, the lock-up and post-office, besides Kirwan's inn and several huts belonging to that individual. There are three cultivation paddocks on it, containing about 25 acres.
Woolwye . .	Nine . .	Abraham Brierly . .	This includes Mr. Brierly's commercial store and several good out-buildings around it. There are several cultivation paddocks on it, containing about 40 acres.
Woolandaby .	Nine . .	James McEvoy and Richard Brooks.	This includes the head station of Mr. McEvoy, and a cattle station of Mr. Brooks. There are four paddocks of cultivation land on this, containing about 40 acres.
Inglebyra . .	Nine . .	Mrs. Woodhouse . .	This includes the huts of Mrs. Woodhouse and a person named R. Tilsley, who has a share in her run. There is about 30 acres of cultivation land.
Nimmitabil .	Twenty-five	John Staunton, Hugh O'Hare.	This includes Staunton's inn and the several huts around it, and also O'Hare's hut and premises, and several cultivation paddocks, altogether perhaps to the extent of 100 acres.
Mount Cooper .	Nine . .	Executors of Robert Campbell and Benjamin Boyd.	This includes all the buildings in Mount Cooper establishment and Mr. Boyd's station at Jincunbilly. There is about 40 acres of cultivation at Mount Cooper, and also an old paddock of about 10 acres at Jincunbilly.
Mahratta, Cotalmaong, and Burrina.	Fourteen .	Chas. Throsby Mathieson, Thos. M. Moore.	This includes all the three head stations of Messrs. Throsby, Mathieson, and T. M. Moore. There are several cultivation paddocks, amounting altogether to upwards of 100 acres.
Bendoc . . .	Nine . .	B. Boyd, — Lawson .	This includes Lawson's head station and a cattle station of Mr. Boyd's. There are several acres under cultivation.
Tallagneong .	Thirteen .	Wm. Hibbard Rixon, Hy. Badgery.	Two acres of this have already been granted to Hibbard, on which he has built an inn. Rixon's and Mr. Badgery's station are included within this reserve, and there is a considerable portion of land cultivated.
Warragubberd and Tarragauda.	Twenty .	Messrs. Walker, Peter Imlay.	This includes Mr. Walker's cattle station, and Mr. Imlay's head station. There is about 40 acres of land under cultivation.
Dry River . .	Nine . .	Hy. Badgery . . .	This includes the station of Mr. Badgery at the Dry River.

(No. 47/947.) J 1.

Superintendent of Port Phillip to Colonial Secretary.

Sir, Superintendent's Office, Melbourne, Sept. 2, 1847.

Referring to your communication of the 26th July, No. 47/392, adverting to the preparatory steps to be taken for giving effect to the expected Order of Her Majesty in Council respecting the occupancy of Crown Land, I beg leave to enclose to you herewith copies of two letters which I have recently received from the Surveyor in charge, to whom I had to refer the inquiries numbered 1, 2, and 3, in your letter to the Deputy Surveyor-General of the above date. The importance of the duty which the Government is called to discharge in preparing for the satisfactory working of the new system of occupation of Crown Lands must be conceded on all hands; but I conceive that the difficulties that must stand in the way of its performance in this district, unless ample means and time are secured for the correct performance of those preliminary surveys, both of the general and detailed features of the country which are called for, are not to be so readily appreciated.

20th August.
26th August.

The Hon. the Colonial Secretary. (Signed) C. J. La Trobe.

(No. 47/98.)

Sir, Survey Office, Melbourne, August 20, 1847.

Referring to a copy of the Honourable the Colonial Secretary's letter to the Deputy Surveyor-General, dated 26th ultimo, for preparatory measures to be taken for giving effect to the expected Order of Her Majesty in Council, with respect to the occupation of Crown Lands beyond the boundaries, I have the honour to state to your Honour, that to accomplish, with all practicable expedition, the survey which would be necessary in the Port Phillip district, this branch of the Surveyor-General's department should be increased.

It will require six extra surveyors for the preliminary survey, which would occupy them two years, at a cost of 10,000*l.*, exclusive of the Coast Survey undertaken by Mr. G. D. Smythe at 30*s.* per mile, and which probably will amount to 2000*l.* more.

The rivers to be surveyed are the Murray, Goulbourn, Avoca, Loddon, Ovens' Broken River, Wimmera, and Glenelg, and the tributaries whereon squatters are located—at least 4740 miles.

In addition to the proposed increase of contract surveyors, the Survey Department, for the purpose of measuring lands for sale, should consist of two surveyors, two assistant-surveyors, one clerk and draftsman at 200*l.*, one assistant-draftsman at 150*l.*, one copying clerk at 100*l.*, one messenger at 2*s.* 6*d.* per day, and four surveying parties of six men each; also that 100*l.* be allowed each party for equipment.

I have, &c.,
(Signed) Robert Hoddle, Surveyor.

His Honour the Superintendent of Port Phillip.

(No. 47/102.)

Sir, Survey Office, Melbourne, August 26, 1847.

With reference to the 3rd paragraph of the Colonial Secretary's letter to the Deputy Surveyor-General, dated 26th ultimo, I have the honour to state that I do not consider the survey of this district is sufficiently advanced to enable me "to lay down general lines of thoroughfare and sites of towns, in all the country at present occupied by licensed squatters," nor should I be able to do so without a much larger staff of surveyors than at present employed: it would take the proposed established staff (mentioned in my letter to your Honour of the 20th instant, No. 47/98) at least one year to complete the settled boundaries around Melbourne, Geelong, &c., marking surburban and cultivation lots, and village reserves.

After the preliminary steps are taken, an outline survey of each Run must be taken, to carry the proposed measures into execution which would employ a great many surveyors at a very expensive rate, which I could not calculate without being furnished with the number of Runs and their extent; the expense would be enormous, and several years must elapse before it could be completed. The supervision of the staff would require the eyes of Argus to avoid the errors that would ensue in so great an undertaking, viz., the survey of the whole of the squatters' Runs.

I beg further to remark, that there are neither instruments nor surveyors in this district at present to commence this undertaking.

I have, &c.,
(Signed) Robert Hoddle, Surveyor.

His Honour the Superintendent of Port Phillip.

(No. 47/979.) (J 2.)

Superintendent of Port Phillip to Colonial Secretary.

Superintendent's Office, Melbourne,
Sir, September 24, 1847.

I beg leave to acknowledge the receipt of your letter of the 4th instant, No. 452, informing me that with a view to give effect to the Order of Her Majesty in Council, regulating the occupation of Crown lands in this colony, his Excellency had been pleased, with the advice of the Executive Council, to direct that the following boundary lines of the settled and intermediate districts should be determined by survey, and requesting that I would cause this duty to be immediately proceeded with, namely:—

1st. Lines including all lands situated within the under-mentioned distances from any point of the respective outward limits of the following towns:—

Melbourne . .	25 miles.
Geelong . . .	15 ,,
Portland . . .	10 ,,
Alberton . . .	10 ,,

2nd. The boundaries of the Counties Bourke, Grant, and Normanby (if not already laid down), and of the district of Gipps Land.

I have now the honour to enclose copy of a communication which I have received from the surveyor in charge, in reply to the reference which I made to him on this subject. 18th September.

1. His Excellency will understand that in the case of the settled districts, while the boundary lines may be defined on the existing charts with sufficient accuracy and clearness for all practical purposes, much time and labour must be expended, if it is required that the boundary lines should be throughout actually run and marked upon the ground without regard to the obstacles that may present themselves from the particular character of the country which they traverse.

I should desire to be favoured with his Excellency's decision upon this point.

2. With regard to the boundaries of Bourke, Grant, and Normanby, the recent surveys will place it in my power to cause correct maps to be furnished, without much delay; and I would state that the portions not actually surveyed at this time, consisting chiefly of a certain extent of coast line and river course, are very immaterial.

As to the survey of the boundaries of Gipps Land as a county or intermediate district: supposing the boundaries of such county to be identical with those hitherto laid down, that will be, as Mr. Hoddle remarks, a work of years. This his Excellency will easily understand when he is reminded that that boundary line is supposed to run through an almost unknown country in a north-west line from Cape Howe to the Dividing Range, and over the crest of that elevated and broken barrier to the ranges in which the Yarra Yarra and La Trobe rivers take their rise.

As, however, the Order in Council directs that the Gipps Land district should be formed into an intermediate district, I shall be at liberty to propose for adoption one or more counties in that direction, of more moderate size, whose boundaries may be defined with at least somewhat less difficulty, and in the presumption that this may be the case, I shall immediately consult the Crown Commissioner of that district, Mr. Tyers, on the subject.

NEW SOUTH WALES.

With reference to the last direction in your letter, that I would propose for his Excellency's consideration the point on the Glenelg from which the lands within two miles from either of its banks are to be included within the settled district, under the direction contained in the Order in Council, Chap. I., sec. 2, 7, I beg to state that there will be no difficulty in performing this duty from the acquaintance we have of that portion of the district from the former survey of Mr. Tyers, and the recent labours of Mr. Wade.

Although this subject is not touched upon in your letter, I feel it my duty to advert to the expediency of taking early steps to include additional fertile occupied portions of land in this district, under the class of intermediate lands, in conformity with the provision made by the recent Orders in Council.

I consider that it is absolutely necessary that the country lying between the county of Normanby and the county of Grant, for instance, including, on the one hand, the settlements at Belfast and Warrnambool, and, on the other, the fertile and purchased lands about Lake Colac, should be comprised within such new counties.

Again, the country to the eastward of the county of Bourke, including a large portion of fully occupied land, and, from the peculiar formation of the coast line, a large portion of the so-called "settled country," should undoubtedly be formed, as I have already had the honour to suggest in former correspondence, into a distinct county.

From the advanced state of the surveys, I do not consider that any great delay need occur, if the branch of the Survey Department in this district is sufficiently strengthened, before it might be possible to determine accurately the proper boundaries of these in each instance.

I have, &c.,

(Signed) C. J. La Trobe.

(No. 47/115.) Enclosure referred to.

Sir, Survey Office, Melbourne, September 18, 1847.

With reference to the Honourable the Colonial Secretary's letter, No. 474/52, dated 4th instant, which your Honour reports upon, I beg leave to state that I see no difficulty to show on plans the lines as proposed for the settled districts, which I understand to be straight lines from any point of the respective outward limits of the towns of—

Melbourne . . .	25 miles
Geelong . . .	15 „
Portland . . .	10 „
Alberton . . .	10 „

With respect to marking straight lines through tea-tree scrubs, passing over perpendicular rocks and mountains, there are insurmountable difficulties which do not require to be pointed out to your Honour, and where it is practicable in many cases is perfectly useless.

With respect to Gipps Land it would require years to survey the features—swamps and mountains in that thickly timbered country.

I am prepared to construct maps of the counties of Bourke, Grant, Mornington, and Normanby. A small portion of the Glenelg and Wannon River, to complete the north-west boundary of Normanby was left unsurveyed by Mr. Pickering, also some miles of coast near Portland Bay, but the line can be shown by bearings, the remarkable headlands having been already laid down.

I have, &c.,

(Signed) Robert Hoddle, Surveyor.

His Honour the Superintendent of Port Phillip.

(K.)

Opinion of the Attorney and Solicitor-General.

1. It is the 12th Clause, relating to forfeited or vacated lands only, that requires the Governor to give "directions" for the sending in of tenders; and the order that "tenders" under Section 13 "shall be dealt with" as tenders under Section 12, does not appear to us to regulate any matters antecedent to the receipt of a tender.

Confining the question to the first-mentioned 12th Clause, we are of opinion that the directions ought to be made by notice in the Gazette, for, unless there be public notification, there will not be the opportunity for *entering into competition*, which is intended to be given.

2. A distinction is made by the Regulations themselves, which appear to us to give the discoverer of a new run the advantages which are here adverted to. The "directions" to be given under Section 12 are evidently intended to be specifically applicable to the particular run applied for; for they are to be issued "immediately after notice" of a desire by any person to purchase a lease of "any run" of forfeited or vacated lands; whereas, Section 13 provides that new runs may be applied for by sealed tenders at such time and place as may be appointed by the Governor "for receiving tenders for new runs." Under the latter section, the Governor has only to give public notification, appointing time and place for making tenders for new runs *in general*, and if his Excellency should appoint certain regular periods (*e. g.* monthly) for receiving such tenders, each discoverer would have all the advantages he could fairly expect, and would, in general, perhaps, be even more free from competition than Her Majesty in Council probably contemplated.

(Signed) J. H. Plunkett, Attorney-General.

October 20, 1847. W. M. Manning, Solicitor-General.

(L 1.)

Mr. Commissioner Rolleston to Colonial Secretary.

Crown Lands Office. Darling Downs,
September 8, 1847.

Sir,

I do myself the honour to inform you that several stations and portions of runs in this district have lately changed hands, and that I have been requested to sanction the transfer of them.

Before doing so, I think it right to receive the approval of his Excellency the Governor.

In some instances a purchase has been made by one neighbour of another's right to depasture a portion of run adjoining his own, by which such portion is taken off one run and added to its neighbour.

In such cases, I request that I may be informed whether a separate licence is required to be taken out by the purchaser for such portion of run, or whether the estimated number of square miles contained therein *added* to the extent of his original run will be sufficient; the same amount having, of course, to be *deducted* from the extent of run of the seller.

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) Chris. Rolleston, Commissioner.

(No. 47/7989.) (L 2.)

Memorandum of Colonial Secretary's Office on the foregoing.

October 16, 1847.

To the transfer of stations as heretofore, *in their integrity*, I am not aware of any objection. This question may possibly involve another, namely, "When a party, who is entitled to demand a lease, transfers his right of station to another, will the Government acknowledge the right of the latter to receive the lease?" If this be answered in the affirmative (as I conclude it must), the matter is plain enough.

But, to Mr. Rolleston's second proposition, namely, that of transferring *portions* of stations, the Regulations of April, 1844, offer a direct negative; the 6th paragraph is as follows:—

"No station, or part of a station, previously occupied under a separate licence, will be incorporated with or added to the station of any licensed person, unless he pay for it the price of another licence."

I think the argument insinuated by Mr. Rolleston, that the portion of land added to A. B's. run is subtracted from C. D's., goes for nothing; for it is quite clear that if C. D. can thus afford to mutilate his run, he must have been in possession of a greater extent of land than he could beneficially occupy.

(L 3.)

Attorney and Solicitor-General to Colonial Secretary.

Sir, Attorney-General's Office, November 3, 1847.

In reply to your letter of the 20th ultimo, transmitting the enclosed letter from Mr. Commissioner Rolleston, inquiring whether, when a party who is entitled to demand a lease transfers his right of station to another, the Government will acknowledge the right of the latter to receive the lease, and requesting, by direction of his Excellency the Governor, our opinion on the subject,—

We have the honour to state, that we are of opinion that such transferrees are not in strictness entitled to demand leases under the 11th Section of the Royal Regulations but if the Commissioner is satisfied of such transferree being eligible as a licencee or Crown tenant, we see no reason why he should not be allowed the same advantages that the original occupier would have enjoyed; but, on the contrary, there appears to be every reason in favour of his being recognized as entitled to the lease. This view is applicable with equal force to entire and partial transfers, provided that the run or portion of run (as the case may be) transferred, were *bonâ fide* in the occupation of the seller, so as to have given *him* the right to demand a lease of it under the Regulations if he had not parted with his interest. The Regulations of April, 1844, which are referred to in one of the minutes which accompany your letter, do not appear to us to affect the question.

We have, &c.,

(Signed) J. H. Plunkett, Attorney-General.
W. M. Manning, Solicitor-General.

The Hon. the Colonial Secretary.

No. 47/8751.

Memorandum of Colonial Secretary's Office on the foregoing Letter.

November 8, 1847.

As allusion is made in the latter part of this letter to my memorandum of the 16th ultimo, I beg to explain that my meaning has been altogether misunderstood.

This Report of the Law Officers shows, as was anticipated, that the transferrees of stations cannot *claim* leases. It will be an act of grace on the part of the Crown to grant them. Now to the granting or acknowledging such transfers of *entire* runs, there can be no possible objection on the part of the Crown; but to the transfer of portions of stations there is a very strong objection, unless the transferree pay a *full licence for* the portion so transferred, in which case the portion would be as readily transferred as the whole. If this principle be not enforced, then sanction is given to a practice the suppression of which is clearly aimed at by the Regulation quoted.

NEW SOUTH WALES.

No. 6

Answered July 14, 1848, p. 133.

(No. 261.) No. 6.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, December 26, 1847.

MY LORD, (*Received May* 20, 1848.)

I DO myself the honour to forward herewith a memorial, addressed to your Lordship by Mr. John Dobie, and three other licensed occupants of Crown lands on the Clarence River. I also forward a copy of the letter from Mr. Dobie in which the memorial was transmitted to me.

Without date.

30th Sept., 1847.

Adverting to the clause in Chapter I. of Her Majesty's Order in Council, of the 9th of March, 1847, which places in the settled districts of the colony all lands within the distance of two miles from either bank of the Clarence River, from a point not less than 50 miles from the sea in a straight line, the memorialists represent that, under that provision, considerable portions of their runs, including their homesteads, have been brought within the class of settled lands; and that they are in consequence excluded, in respect to such portions of their runs, from the privileges of a lease for a term of years, the right of pre-emption, and an allowance for improvements on the sale of the lands. In order to obtain for themselves these privileges, the memorialists pray for an alteration of the Order in Council, limiting the settled lands on the banks of the Clarence to the navigable part of the river, and placing that portion of the now settled lands which lies above the head of navigation, in the class of intermediate lands.

21st Oct., 1847.

This request of the memorialists I am not prepared to support; but I fully concur in the opinion expressed by my Executive Council in the Minute, of which I enclose a copy, that their case is one of considerable hardship, in so far as they are precluded from receiving any allowance for their improvements, in the event of their homesteads being offered for sale. I beg, therefore, to submit to your Lordship's favourable consideration the suggestion made by my Executive Council in the same Minute, that the Order in Council should be so modified as to give to the memorialists, and to any other persons similarly circumstanced, the privilege of receiving the same allowance for improvements as will be made under the *second* and *third* conditions of the 15th Section of Chapter II. of those Orders, to such lessees of intermediate or unsettled lands as may not avail themselves of their pre-emptive right on the expiration of their leases.

Until favoured with a reply from your Lordship, communicating the decision of Her Majesty's Government on this application, I shall withhold from sale all improved lands which have been hitherto occupied under what may be termed squattage tenure, but which are now brought within the class of settled lands by the provisions of the Order in Council.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. (Signed) C. A. FITZROY.

Encl. 1 in No. 6.

Enclosure 1 in No. 6.

To the Right Honourable EARL GREY, Her Majesty's Principal Secretary of State for the Colonies.

The Humble Memorial of the undersigned Licensed Occupants of Crown Lands on the Clarence River, in the Colony of New South Wales,

RESPECTFULLY SHOWETH,

THAT your memorialists view with alarm the publication of the Orders passed on the 9th March, 1847, by Her Most Excellent Majesty the Queen in Council, by virtue of a recent Act of Parliament for regulating the sale and management of waste lands in the Australian colonies.

That while your memorialists fully appreciate and gratefully acknowledge the gracious and equitable spirit in which these Orders are framed, they have great reason to apprehend that, so far as your memorialists are concerned, the Orders will, if enforced in their present form, exclude them from all the benefits intended to be conferred upon the class to which they belong.

That your memorialists allude to that clause in the Orders which reserves as settled lands all land within two miles of each bank of the Clarence River, for a distance of 50 miles from the sea, measured in a straight line.

That your memorialists beg respectfully to represent, that the alluvial and flat lands, available for agricultural purposes, on the banks of the Clarence, do not extend more than three

miles beyond the head of the navigation, or about 50 miles from the sea, measured along the course of the river.

That your memorialists, foreseeing the probability of such lands being shortly laid open for settlement, removed to a distance from them, and selected their runs solely with a view to their adaptation for *pastoral* purposes.

That (in proof of the above statement) your memorialists have bestowed great labour and expense in endeavouring to produce grain for their own consumption, but have nevertheless been invariably unsuccessful.

That according to the limits defined by the Orders in Council, the settled lands will extend upwards of 50 miles *beyond* the navigable and agricultural portions of the river, and thus include a great part of the runs and residences of your memorialists.

That your memorialists will, by this arrangement, be excluded from the important privileges enjoyed by their immediate neighbours, and all other persons in the licensed occupation of Crown lands beyond the boundaries, namely, a period of lease, the right of pre-emption and compensation for their improvements, and be rendered liable, by public competition at auction, to be deprived of their runs, and ejected from their homes.

That if permitted to remain in the unequal position in which your memorialists will thus be placed, the ruin of their private interests may at any time be effected by the malice of a single individual, while your memorialists are unable to perceive, that from such an event any corresponding advantage would accrue to the public.

That whilst your memorialists are anxious to bring clearly before your Lordship's notice the vast disadvantage under which they, as the original and present occupiers, would labour in being compelled to compete at auction for their stations, your memorialists desire at the same time distinctly to state that, should the Government be desirous of selling the land occupied as homesteads by your memorialists, they are ready to purchase it at its intrinsic worth.

That your memorialists were the *first* squatters who settled on the Clarence; that with great difficulty, and after repeated failures, they succeeded in finding a road, and thus rendered the district (before unknown) accessible to the public.

That at the time your memorialists discovered this river, they went 150 miles beyond the furthest squatters.

That in traversing so considerable an extent of difficult country, and in erecting necessary buildings—by deaths and losses among their stock, and by the depredations of the aborigines, your memorialists incurred an outlay which, to the present time, has never been repaid them, and which cannot be estimated at less than 1500*l.* each for the two first as sheep farmers, and 800*l.* each for the two last as cattle and horse proprietors.

That many who wanted the enterprise and energy necessary for the discovery of unknown country followed in the footsteps of your memorialists, and now enjoy those privileges from which your memorialists unhappily find themselves excluded.

That as the Act of Parliament contemplating the probable necessity of renewing, altering, and amending these Rules and Regulations, has given such power to Her Majesty the Queen in Council, your memorialists humbly pray, that the settled parts of the district be confined to to the *navigable* and *agricultural* portions of the Clarence, which extend about 50 miles from the sea, measured along the course of the river.

That your memorialists will thus be placed in the intermediate class, and admitted to the enjoyment of the privileges which they earnestly crave, namely, a period of lease, the right of pre-emption, and compensation for necessary buildings and improvements.

In placing their case respectfully before your Lordship, your memorialists feel that their position is without a parallel: they appeal, therefore, with confidence to your Lordship's high sense of justice; they earnestly pray that their respectful representation may meet with your favourable attention, and that your Lordship may be pleased to re-consider and amend the clause to which they have referred, namely, the 7th clause, sec. 2, of the Land Orders, and which, if carried into effect in its present form, will be attended by such consequences to them as your memorialists tremble to anticipate.

See Chap. I., sec. 2, clause 7, par. 3.

And your memorialists, as in duty bound, will ever pray.

JOHN DOBIE, J.P.
EDWARD D. OGILVIE, J.P.
JOHN MYLNE, J.P.
CHARLES J. WALKER, J.P.

Enclosure 2 in No. 6.

Encl. 2 in No. 6.

SIR, Sydney, September 30, 1847.

I HAVE the honour to enclose a memorial signed by myself and three other licensed occupants of Crown lands in the district of the Clarence River, which I have to beg you will be pleased to lay before his Excellency the Governor, and I venture to express a hope, that the purport of it may meet with a favourable consideration, and that his Excellency may deem fit to place it before the Principal Secretary of State for the Colonies, with such remarks as he may think the justice of the case to merit. Notwithstanding that the grounds in support of the claims preferred in the memorial are so fully set forth, I might yet adduce others entitling them to a no less favourable consideration from Her Majesty's Government, but I am fearful of trespassing too much upon the time of the Earl Grey. I may be permitted, how-

NEW SOUTH WALES.

ever, to state, that in the year 1839 the district of the Clarence River was but little known; the Government could only obtain a very imperfect description of it from the masters of small vessels trading for cedar; that towards the middle of that year many attempts were made to reach it overland, but successively failed; and it was not till the early part of 1840, that the memorialists succeeded in reaching it with their flocks and herds, traversing a large extent of unknown country, and thus discovering a practical road which opened out a large and important district, which would otherwise have remained unavailable for the purposes of settlement; all this could only be effected at much personal risk, with great loss of property, and also heavy expense. In selecting their runs *above navigation*, the memorialists were guided entirely by views of a pastoral nature. In fact, so utterly unfit is the land *above navigation* for any other purpose, that not one of the memorialists has been enabled to grow sufficient wheat for his own consumption, but has been compelled to obtain the necessary supplies from the Sydney markets. The Clarence River never can be made available for exports, except by steamers and vessels of a small class. Three quarters of a mile at sea from its mouth is a shifting sand bar, across which there is a narrow channel with but 10 and 12 feet at high water; no art can improve this. In no part of the colony, heretofore occupied under squatting license, has such an extent of country been brought by the Order in Council into the class of the settled lands. Should the prayer of the memorial be favourably entertained, and the settled lands of the Clarence be limited to the *navigable part* of the river, more land will be laid open for purchase than can possibly be required for the next 20 years; under these circumstances, the memorialists indulge the confident hope that their case will receive the favourable consideration of Her Majesty's Government, and, pending the decision of the Earl Grey, they trust that his Excellency the Governor will feel himself justified, under the peculiar hardship of their case, to withhold from sale any portion of their runs, and especially such part as may include their improvements.

I have, &c.,

The Hon. the Colonial Secretary, &c. &c. &c.

(Signed) JOHN DOBIE.

Encl. 3 in No. 6.

Enclosure 3 in No. 6.

PROCEEDINGS of the EXECUTIVE COUNCIL relative to a MEMORIAL from Dr. DOBIE, and other Licensed Occupants of Crown Lands on the Clarence River, setting forth the hardship to which they are subjected in consequence of improved portions of their Runs having been included within the class of Settled Lands, and praying for an alteration of the boundaries of the Settled Lands in that locality, which will have the effect of placing the portions of their Runs in question in the intermediate class.

Extract from Minute No. 47/21, *dated* 21*st October*, 1847.

Members present:—

His Excellency the Governor.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

His Excellency the Governor laid before the Council a letter from Dr. John Dobie, transmitting a memorial to the Secretary of State from himself and three other licensed occupants of Crown lands on the Clarence River, setting forth the disadvantageous position in which they were placed by the circumstance of considerable portions of their runs, including their homesteads, having been brought by Her Majesty's Order in Council of the 9th March, 1847, within the class of settled lands, and by their being thus excluded in respect to such portions of their runs from the important privileges of a lease for a term of years, the right of pre-emption and compensation for their improvements in the event of the sale of the lands to other persons. The memorialists prayed that these advantages might be extended to them by an alteration in the Order in Council, limiting the "settled lands" on the Clarence to the banks of the navigable part of the river, or to about 50 miles from the sea, along the course of the river, instead of in a straight line, and bringing that portion of the now "settled lands" which lies above the head of navigation within the class of intermediate lands.

Before transmitting this memorial to the Secretary of State, his Excellency desired the opinion of the Council in respect to the subject of its prayer.

Having maturely considered the memorialists' representations, the Council were of opinion that their case was one of considerable hardship, in so far as they were precluded from receiving any allowance for their improvements in the event of their homesteads being offered for sale. The Council begged, therefore, to suggest the expediency of such a modification of the terms of the Order in Council as would give to the memorialists, and to any other persons similarly circumstanced, the privilege of receiving the same allowance for improvements as will be made under the *second* and *third* conditions of the 15th section of Chap. II. of the said Order, to such lessees of intermediate or unsettled lands as may not avail themselves of their pre-emptive right on the expiration of their leases.

The Council further advised, in accordance with the request in Dr. Dobie's letter, that, until

the decision of Her Majesty's Government on this subject shall have been received by his Excellency, neither the lands referred to by the memorialists, nor any other similarly circumstanced lands should be offered for sale.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

(No. 262.) No. 7.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Answered July 14, 1848, p. 133.

Government House, Sydney,
December 27, 1847.

MY LORD, (*Received May* 20, 1848.)

IN my Despatch of the 6th of December instant, No. 238, reporting the measures taken by me respecting the proclamation of new counties, with a view to their being brought within the class of intermediate lands under Chap. I, s. 3 of Her Majesty's Order in Council of the 9th of March, 1847, I included, amongst other Minutes of my Executive Council a Minute adverting to applications of similar purport from Messrs. Rutledge and Atkinson, two large landed proprietors in the neighbourhood of Port Fairy, in the district of Port Phillip.

Page 13.

Minutes of 24th Nov., 1847, concluding paragraph.

The first of two requests made by these gentlemen in the applications referred to is, that a county should be proclaimed comprising the land in the neighbourhood of Port Fairy. This request will be satisfied by the proclamation of the proposed county of "Villiers," should it be authorized by Her Majesty's Government.

Papers 13 and 14, appended to Council proceedings, enclosed in Despatch No. 238, 6th Dec., 1847.

The second request is, that the land lying within the distance of ten miles from the town of Belfast, at Port Fairy, may be declared a settled district in the same manner as the land adjoining Portland, and other towns has been so declared by the Order in Council of the 9th of March, 1847. This matter being distinct from the new counties' question, and of great importance to the parties interested, I have thought it right to address your Lordship separately upon it.

Considering their extensive purchases of Crown lands in the neighbourhood of Belfast, my Executive Council have recorded their opinion that this request on the part of Messrs. Atkinson and Rutledge is a reasonable one; and have advised that, pending the decision of Her Majesty's Government upon it, the land within the distance of ten miles from Belfast shall be temporarily reserved from lease under the powers vested in the Governor by the 9th section of Chap. II. of the Order in Council. Concurring in my Council's views, I shall adopt their advice, and shall not for the present lease the lands in question.

I enclose a return showing the lands which have been sold by the Crown in the neighbourhood of Port Fairy, from which your Lordship will perceive that Mr. Atkinson has brought 8194 acres in that locality at a cost of 8632*l.*, and Mr. Rutledge 6367 acres at a cost of 6367*l.*

It is right that I should inform your Lordship that the town of Belfast is not a Government township, but one which has been laid out by Mr. Atkinson upon part of his special survey at Port Fairy.

Should Her Majesty's Government see fit to form a settled district about Belfast, I trust that the adoption of some provision, such as that recommended in my Despatch of the 26th instant, No. 261, will secure to the present licensed occupants of the Crown lands which will thus be brought within the settled class an allowance, on the sale of the lands, for any improvements which they may have effected thereon.

Page 50.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. (Signed) C. A. FITZROY.

NEW SOUTH WALES.

Encl. in No. 7.

Enclosure in No. 7.

RETURN of LANDS which have been sold by the Crown in the Neighbourhood of Port Fairy in the District of Port Phillip.

PURCHASERS' NAMES.	Number of Acres.		Amount paid.	
	In each Lot purchased.	Total.	For each Lot.	Total.
	A. R. P.	A. R. P.	£. s. d.	£. s. d.
Mr. James Atkinson	70 0 0	. .	105 0 0	. .
	7 0 0	. .	17 10 0	. .
	85 0 0	. .	187 0 0	. .
	87 0 0	. .	274 0 0	. .
	75 0 0	. .	112 10 0	. .
	82 2 0	. .	123 13 0	. .
	50 0 0	. .	75 0 0	. .
	548 0 0	. .	548 0 0	. .
	416 0 0	. .	416 0 0	. .
	385 0 0	. .	385 0 0	. .
	100 0 0	. .	100 0 0	. .
	120 0 0	. .	120 0 0	. .
	289 0 0	. .	289 0 0	. .
	320 0 0	. .	320 0 0	. .
	440 0 0	. .	440 0 0	. .
	*5,120 0 0	. .	5,120 0 0	. .
		8,194 2 0		8,632 13 0
Mr. William Rutledge	149 0 0	. .	149 0 0	. .
	362 2 0	. .	362 10 0	. .
	400 0 0	. .	400 0 0	. .
	335 3 8	. .	335 16 0	. .
	*5,120 0 0	. .	5,120 0 0	. .
		6,367 1 8		6,367 6 0
Mr. John Ritchie	640 0 0	. .	640 0 0	. .
	560 0 0	. .	560 0 0	. .
		1,200 0 0		1,200 0 0
Mr. George Winter	261 0 0	. .	261 0 0	. .
	355 0 0	. .	355 0 0	. .
	338 0 0	. .	338 0 0	. .
		954 0 0		954 0 0
Mr. Thomas Manifold	328 0 0	. .	328 0 0	. .
	351 0 0	. .	351 0 0	. .
		679 0 0		679 0 0
Mr. Patrick Slattery	69 2 0	. .	104 5 0	. .
		69 2 0		104 5 0
		17,464 1 8	. .	17,937 4 0

* These were special surveys.

Surveyor-General's Office, Sydney, December 30, 1847.

S. A. PERRY, Deputy Surveyor-General.

No. 8. Answered July 14, 1848, page 133.

(No. 263.)

No. 8.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, December 28, 1847.

MY LORD,

(*Received May* 20, 1848.)

21 December, 1847.

IN reference to my Despatch, No. 262, of the 27th instant, I have now the honour to transmit herewith a copy of a communication from the Superintendent of Port Phillip, in which he expresses his concurrence in the recommendation of my Executive Council, that the land lying within the distance of ten miles of the town of Belfast should be declared to come within the class of settled lands; and also suggests that the lands lying within the same distance from the neighbouring government township of Warnambool, should be in like manner declared to come within the class of settled lands. In illustration of this subject, I further have the honour to inclose herewith a tracing showing the relative positions of the townships of Belfast and Warnambool, and the lands sold and measured for sale in that locality previously to the publication of Her Majesty's Order in Council of the 9th

March, 1847, respecting the occupation of Crown lands in this colony. It is only further necessary for me to state that, concurring entirely with the Superintendent of Port Phillip in his opinion, that it would be desirable to add the lands within ten miles from Warnambool to the settled districts, I shall reserve those lands from lease until the receipt of your Lordship's decision on the subject.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c. (Signed) C. A. FITZROY.

Enclosure in No. 8.

Encl. in No. 8.

Superintendent's Office, Melbourne, December 21, 1847.

SIR,

I LOSE no time in replying, however briefly, to the reference made to me by his Excellency's desire in your letter of the 14th December, No. 695, received yesterday, on the subject of the application addressed to his Excellency by Messrs. William Rutledge and James Atkinson respectively, that Port Fairy may be proclaimed a county.

I beg to state, that I hold it very advisable that the arrangement proposed for adoption by his Excellency and the Executive Council, in taking this application into consideration, should be confirmed by Her Majesty's Government. Both the township of Belfast at Port Fairy, and the new township of Warnambool on the bay of that name, about 15 miles to the eastward, fall within the proposed county of Villiers. In either instance, the lands lying within three miles of the coast would be comprised within the settled districts by the terms of the Orders in Council; but I deem it highly expedient, considering the large quantity of valuable agricultural land lying within the limits of ten miles of both places, that all the land so situated should be comprised within the "settled district;" and even with this arrangement, it will be absolutely requisite for the Government to make further reserves in the proposed intermediate lands lying adjacent or beyond this limit for agricultural purposes, before leases should be granted for depasturage.

I beg leave to return the original letters transmitted to me.

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) C. J. LATROBE.

(No. 18.) No. 9.

No. 9. Answered August 11, 1848, p. 133.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, January 18, 1848.

MY LORD, (*Received June* 1, 1848.)

AT the request of Mr. William Bland, an elective member of the Legislative Council of this colony, I have the honor to enclose copy of a letter which he has addressed to me, commenting on the Report of the Select Committee of the Council on the Minimum upset Price of Land. 20th Dec., 1847.

I also enclose a copy of the Report alluded to, which was brought up during the last session of the Council, and which has only recently been printed. Council Paper. 134—a.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c. (Signed) C. A. FITZROY.

Enclosure 1 in No. 9.

Encl. 1 in No. 9.

SIR, December 20, 1847.

I CANNOT, even unwell as I am, refrain from addressing your Excellency on the subject of the Report of the Select Committee of the Legislative Council, appointed, on the 23rd July, 1847,* "to inquire into and report upon what ought to be the minimum upset price or prices of land in the various counties and districts of New South Wales," laid before the public in the course of last week.

Could I venture to hope that the Home Government would deign to consider its colonial

* The Report was published in the "Atlas" of the 23rd October, when I read it for the first time, and this letter was for the most part written during the ensuing week, when it was unavoidably laid aside, in consequence of a severe relapse of illness.

NEW SOUTH WALES.

possessions, more particularly its Australian colonies as worthy of its thought and careful study, as the pinions by which our parent country may elevate herself, and maintain her position pre-eminent among the surrounding nations,—as the means of increasing her internal commerce, if I may so term it, the private wealth of her subjects, and, as consequent upon it, her national revenues or public income to any desirable extent,—as the natural heritage of her surplus population, as the means of converting that portion of her population now becoming daily the victims of pauperism, squalid misery, disaffection, famine, disease, and death,—into the elements of wealth and contentment,—the means of creating employment for themselves and for others—not only here but at *home;*—could I venture to hope that the Home Government could spare time from present apparently more urgent objects of consideration for that of its colonial interests, I should have nothing to dread by a little delay, and I would then gladly postpone those remarks which I am about to make until returning health and strength might enable me to lay them before your Excellency in a more fitting form. But that happy state of things I utterly despair of, at any rate at present; and therefore, however unequal I feel myself to do justice to this important subject, yet I will make the attempt, although, in doing so, I shall be compelled to confine myself merely to pointing out what appear to me a few vital flaws in the Report of the Select Committee; but which are sufficient to demonstrate with what caution it ought to be received, either in whole or in part, as a document to be acted upon. Not so much because there are any direct conclusions, if any direct conclusions are arrived at, in the Report from which there would be much to apprehend if acted upon, as simply because the adoption of any of its conclusions, whether direct or indirect, would most probably distract the attention at home from those evils so intimately connected with the present subject, not merely in its bearings on this colony in particular and the colonists, but still more seriously both now and in perspective upon the Home Government and the parent country.

I now beg to proceed at once to the Report, on which I will commence with a few general observations, and first it is gravely erroneous in its most material statistics, or what is of no less importance, in their application; 2ndly, it is devoid of any attempt at the solution of that problem, the solution of which ought to have been, as professed, its first object; while, 3rdly, it still indirectly or collaterally, adheres to the delusion of applying the proceeds from the waste lands of the colony to the importation of labour, no attempt being anywhere made to demonstrate the immense advantage that would accrue to England from her undertaking that function herself, *solely at her own expense*, and the utter impossibility of this colony or any colony performing that portion of her public duties for her.

Again, it not only, as before stated, does not attempt to solve that question, the solution of which, from its title, ought to have been its main object; but further, it has not even attempted to take one step towards the suggestion, much less the establishment, of any principle on which that question could be solved. Now, as to the statistics:—

The first paragraph of the Report contains a table of sums realized from the sale of Crown lands between 1837 and 1846, at 5*s*., 12*s*., 20*s*., and upwards of 20*s*. an acre; to this is added the amount of population, which in 1837, was 85,000; in 1846, 196,000, and whence it appears, especially in proportion to the amount of population at the two respective periods, that an immense decrease took place in the said sums, viz., from 121,962*l*. 12*s*. 5*d*., in 1837, when the the price was 5*s*. an acre, to 27,700*l*. 8*s*. 7*d*. in 1846, when the minimum price was 1*l*. But the question here occurs, if the price alone, as asserted in the Report, regulated the amount of sale, how came the sum realized in 1840, when the price had been not only raised from 5*s*. to 12*s*. an acre, but the latter price had been established upwards of 12 months, to amount to 324,072*l*. 3*s*. 1*d*., almost three times the sum realized in 1837, when the price was only 5*s*. Perhaps it would not be difficult to solve this apparent paradox by referring to various elements of calculation which are entirely omitted in the Report; thus, for instance, the gambling spirit encouraged by the local government of that time, by their extensive loans to the colonial banks at a rate of interest (latterly as high as 4 per cent.), which did not allow those establishments to let such loans be unemployed—the consequent unlimited amount of discounts done in the banks, and hence the apparent excessive superfluity of specie with its consequent abuse, and its temporary fall in value—add to this the gradually increasing land mania, which, like every other similar mania, "vires acquirit eundo," at least until the sustenance which supports it is exhausted. That sustenance, then, soon after this period, was suddenly withdrawn by the withdrawal of the Government loans to the banks during a panic of the local government, and the consequent immense and sudden contraction of the bank discounts; very ill replaced as they were by the issues of the Trust Company, the Loan Company, and the Scotch Company, at high, and in some of these establishments, most exorbitant rates of interest. I now come to another serious fallacy:—"Sir George Gipps," the Report states, "had referred the decrease in the sale of Crown lands to the general insolvency of the colony and not to the high minimum price." "If so," the Report proceeds, "we may expect to find the same paralyzing influence extended to all markets as well as the land market. The comparison of 1837 with 1846 will completely show the fallacy of this suggestion. In 1837 the value of exports from this colony was 760,000*l*.; in 1846, the value was 1,481,000*l*., or nearly double; in 1837, the ships entered inwards were 400, of the burden of 80,000 tons; in 1846, the ships entered inwards were 767, of the burden of 141,000 tons. In 1837, the proceeds of sales by auction were 321,000*l*.; in 1846, 414,000*l*. In 1837, the coin in the treasury, military chest, and banks, was 427,000*l*.; in 1846, 827,000*l*." In reply to these statistics, as above applied, I will only observe that, however correct the figures may be, they are utterly useless for any practical purpose. As to the observation of Sir George Gipps, I must say that, although many things no doubt conduced to decrease the land sales besides the insolvency of the colony, as, for instance,

the withdrawal of cheap labour, and the sudden demand for the whole of the pecuniary resources of the colony, not only to meet the enormous expense of importing labour of other description, and of importing bread and other articles of subsistence for its use, but of providing wages for its employment; yet still the opinion of Sir George Gipps, as far as it went, was correct, and even without any elucidation a far better reason than the one assigned in the Report for the decrease of the sums realized by the sale of Crown lands, in the disastrous period from 1842 to 1844 inclusive.*

The next fallacy is as follows:—"In 1837 the value of exports from the colony was 760,000*l.* In 1846 the value was 1,481,000*l.*, or nearly double."

Here the honourable and learned chairman makes the same error that Napoleon did in calculating the commercial resources of England, in omitting her internal trade, inasmuch as he ought to have added to our resources, whether financial or of a kindred character, about the period alluded to, the cheap or gratuitous labour of about 30,000 assigned convicts, worth about 20*l.* a-head, 600,000*l.*, and the sum of upwards of 400,000*l.* annually expended in the colony by the Imperial Government for the support of her penal establishments, making, with her export trade, the sum of 1,761,000*l.*, which, in proportion merely to population at the two different periods, 1837 and 1846, was, in round numbers, equal to about 3,522,000*l.* The Report proceeds, "In 1837 the ships entered inwards were 400, of the burden of 80,000 tons; in 1846 the ships entered inwards were 767, of the burden of 141,000 tons." Now, in order to show that our export trade had been regularly progressive, that there had been no decrease likely to interfere with our purchase of land, as our present principal staple (wool) ought to double itself every three years, the return for 1846 or 1847 ought to be ships 3200, tons 320,000. In 1837 the Report states the proceeds of sales by auction were 321,000*l.*; in 1846 414,000*l.*; what light this isolated fact throws upon the state of the country at those two periods it is impossible to imagine, particularly when we are acquainted with a few of those facts which are connected with it; for instance, that in 1837 the auctioneers' charges for the most part were 5*l.* per cent.; that now, for the most part, they do not exceed 1*l.*, while the Government charges or orphan dues at both periods were the same.

Besides, if the amount of sales by auction is to be admitted as a test of our regularly progressive prosperity, the present amount to bear a due proportion to that of 1837 ought to be, on the principle above explained, about 2,568,000*l.* instead of 414,000*l.* The Report concludes its elaborate series of statistics with the following, viz., "In 1837 the coin in the treasury, military chest, and banks was 427,000*l.*, in 1846 827,000*l.*; but what light can this naked fact, if correct, throw upon the pecuniary resources of the colony at the two different periods referred to, when it is notorious that in the brief period of five years, (between 1837 and 1843,) when, according to the above statistics the colony must be considered as possessed of only half its present amount of coin, it contrived to export 2,200,000*l.* sterling; and that in the carrying out of an operation by which its population was almost simultaneously about doubled, and whence of course arose an immediate demand for about a twofold amount of circulating medium, if merely to maintain a balance between the financial demand and supply, a balance which was as far as possible no doubt preserved, if only for the purpose of meeting the demand for wages, &c. But how? partly by vast loans, though at exorbitant rates of interest,† contracted principally with the new companies before mentioned, partly in conformity with the views of Sir George Gipps, by the all but total discontinuance of the purchase of land. Besides, in order to render this last article of the financial statistics of the Report something more than an appearance, the honourable and learned chairman ought to have observed, that while in the year 1837 the coin, at least in the banks, belonged almost exclusively to the colonists for which they were *receiving* interest; in 1846, nearly the whole of this amount belonged to foreigners, and for which the colonists were *paying* interest; and that while in the former instance it gave life and vigour to the colony, in the latter it has long continued to operate as one of its most exhausting and deadly drains. It is strange also, when on this subject, that the Report should have been silent on the fact; that, notwithstanding the apparent smallness of amount in the treasury, military chest, and banks collectively at the period adverted to, the military chest alone disbursed annually upwards of 400,000*l.* for the support of the Imperial penal establishments in this colony; the whole of which immense sum was received by and circulated among the colonists.

I shall not dilate any further on the statistics of the Report, although the subject is anything but that easy plain matter which the Report seems to assume. If I have said sufficient to show that the statistics, at least as applied in the Report, are worse than useless, I have done, perhaps, all that could be done in the narrow limits which it is necessary I should confine myself, and all that at present is required.

The omission in the Report "to inquire into and report upon what ought to be the minimum upset price or prices of land, &c.," the sole question originally proposed for its consideration, though doubtless a somewhat strange omission, is one of its best features; inasmuch as such omission is not likely to mislead or be the cause of any other kind of injury, while it betokens something like a misgiving as to the facility of dealing summarily, and as it were extemporane-

* From 1837 to 1843 this colony had disbursed, as follows, about 1,000,000*l.* for the importation of what was called labour, and about 1,200,000*l.* for bread stuffs, &c., for the subsistence of the so-called labour, so imported; *i. e.*, this colony had exported 2,200,000*l.* in about five years, when the population did not average above 100,000 souls, or upwards of 4*l.* per head, at the precise time, when its principal sources of financial supply (the saving on convict labour, and the expenditure of the Imperial Government just stated) were being dried up, and a vast additional pecuniary demand was being created!

† Ranging from 10 to 16, and even 25 per cent.

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ously, with this subject. I regret I cannot deal as lightly with its adhesion to the old and now so often exploded error of applying the land fund of the colony to the importation of what is termed "labour."* But I will return to this subject of appropriation presently, when speaking as I propose to do on what ought to be the price or prices of the Crown lands of the colony, with which it has always appeared to me, that it ought to be intimately, perhaps indissolubly, connected.

More than the half of this elaborate Report is occupied with the Act of the Imperial Parliament, 10 Vict. c. 10, and the land orders issued under it, with which for the most part I fully concur.

Having gone through the principal subjects actually considered in the Report, I shall now confine myself to that which it proposed to itself for inquiry into, but which it has left, as I before stated, entirely untouched,—"an inquiry into what ought to be the minimum upset price or prices of land, &c.," and to which I shall add the most desirable mode of appropriating the funds derivable therefrom with regard to the best interests, both of the parent country and this colony.

In fixing the price or prices of land, we should always bear in mind—1st. That in this as in other matters, extremes meet, or are either identical or very closely analagous in their results. Thus an extremely low price, such as that glanced at or indirectly recommended in the Report, is the parent of monopoly and extortion. 2nd. The next consideration might be the means of the purchasers and the motives to purchase. 3rd. That as a general rule, if the statements of the squatters and of some other parties concerned be correct, that it requires from three to six acres of land for the support of one sheep, and of course a still greater proportion for horned cattle and horses, the price of land ought on no consideration to be reduced so as to render it available for grazing; particularly while there remains open to the squatter such unlimited extent of waste lands, fully adequate to meet all the demands of his very temporary and transitory pursuits. 4th. That the value of the waste lands of any country depends much on the facility or difficulty of access to them, their salubrity, and the degree of security for life and property which they are likely to afford, the facilities afforded for the rearing of families, and the provision made for the comfort, civilization, and general welfare of purchasers. Hence, as mentioned by Lord Durham, "while land in the United States contiguous to the boundary line between that country and Canada, of inferior quality to that on the frontier of the latter country, sold readily at 5*s*., and was converted at once into thriving townships, that on the Canadian border was not saleable at 2*s*. 6*d*., or indeed, even in moderate quantity at any price." If the above be an obvious truism, how futile against the 1*l*. an acre price are such mere naked assertion as the following, viz.:—"At the Cape of Good Hope, land can be obtained for $\frac{1}{10}$, in Canada for $\frac{1}{4}$, and as it appears recently, in the United States for $\frac{1}{40}$ of the sum demanded for a like quantity (of land) here. The same remark applies to a preceding statement respecting the "moor lands of England, and the bogs of Ireland," unaccompanied as it is with those explanations of the motives or inducements for sale and purchase, which alone could render a statement of such facts intelligible. 5th. The average rate of rents, as in the case of the sale of lands, the property of individuals may also, if used with extreme caution, be adopted as another test for determining what ought to be the upset price or prices of land in any given locality.

Referring to the above several principles, I do not hesitate to assert, that provided a facility of access to his land be furnished to the purchaser, and it is not imperative that the portion of land sold should exceed 50 or 100 acres on the banks of some river, or in some district suited for agriculture, or fitted for the homestead of some estate or squattage, 1*l*. an acre is by no means too high an upset price; while in the vicinity of towns, the upset price for building purposes would have to be determined by what might be supposed to be a very low rate of proximate intrinsic value.

Having stated what appear to me to be the principles on which the upset price or prices of the waste lands of this colony might be based, and the price or prices which at present might be adopted, I will now state in what manner, both with regard to the best interests of this colony and of the parent country, the proceeds from such sales ought to be appropriated; and this I do not hesitate to assert, ought to be wholly for the benefit of this colony, in the construction of public roads or other similar works of prime importance and necessity. I adhere to this conclusion, because any other, it appears to me, would be beset with fallacies more or less injurious, and would, if acted upon, terminate in a renewal, in a greater or less degree, according to the modification of the plan adopted for carrying it out of all those ruinous results both to this colony and to the parent country, which were experienced so lately from such cause.

In order the better to illustrate this subject, I will here detail as briefly as possible the principal circumstances of the late emigration movement to this colony at the expense of the colony, and some matters connected with it; and I will then endeavour to detail the steps that ought, in my opinion, to have been adopted by the parent country and this colony respectively in reference to that undertaking.

The system of emigration alluded to commenced in 1837 or 1838, and closed in 1842 or 1843, extending over a period of about five years. At its commencement this colony was, without doubt, for its population, infinitely the wealthiest, most prosperous, rapidly progressive, and important dependency of the British crown. The population, during the above period, might

* Labourers, so called, who, in large proportion, almost immediately become employers of labour, so that the number of employers, in proportion to that of the labourers, is now quintuple or sextuple what it was when the late system of immigration commenced.

average 100,000 souls, and the colony exported 1,000,000*l.* sterling for the importation of about 60,000 immigrants, and about 1,200,000*l.* principally for bread-stuffs for their support, exclusive of having to provide for the average amount of imported manufactures and other goods, at the same time that she had to meet a new internal demand of at least 1,000,000*l.* annually for wages, partly for the immigrants lately arrived, partly for those persons who lately were assigned convicts, and serving without wages, but who were becoming free daily by servitude or by pardon.

Thus it appears that this colony, during the above period of five years, continued to export capital at the rate of upwards of 4*l.* a-head for every person in the colony for immigration purposes alone, of which not 1*s.* could ever return, at the same time that she had the vast additional internal outlay cast upon her which has just been explained, exclusive of her usual routine demands upon her to cover the cost of her ordinary amount of imports.

No additional proof is required of our solid prosperity at the time this fatal operation was commenced; nor need we look for any other cause for that notorious and frightful ruin in which, at its expiration, the colony became involved herself, and in which she unavoidably involved more or less all others, with few exceptions, with whom she was connected.

Hence even now her comparatively crippled condition, the ruinous amount of interest which she is obliged to pay to foreign usurers, or capitalists for capital borrowed, to replace that which had been exported, and the large amount of debts due to British merchants (about 1,000,000 sterling), which has been sponged out by our frightfully long list of insolvencies. Let us now imagine that a contrary plan has been adopted. Let us imagine that even a portion, say 300,000*l.* out of the 1,000,000*l.* expended in immigration had been disbursed on internal improvements, *e. g.* the construction of a main road from Sydney to Goulburn, as the commencement of a great southern road, what would have been the results?—1st. The sum of 300,000*l.* before mentioned would have been spent and circulated in the colony, instead of being abstracted from it.—2nd. A somewhat larger sum exported for bread-stuffs would also have been retained, while the 14,000 or 15,000 immigrants which were imported with the 300,000*l.* would have been well replaced by an adequate amount of convict labour imported from Van Diemen's Land, to the great relief (as it would appear from the complaints on this subject) of that colony, and the incalculable benefit of this.—3rd. This colony would long have been possessed of what it is still so much in want, some easy and safe access to the southern interior, by which not only those almost illimitable regions would have been rendered more readily available, but also the principal and best grain and hay districts would have been at once opened to the capital.—4th. The whole line of road from Sydney to Goulburn, about 120 miles, would have been furnished, by means of embankments that would have been formed in the construction of such a road, with a continuous series of tanks, in which the surplus rains of wet seasons would have been treasured up against the periods of drought.—5th. The whole of the waste, as well as other lands on each side of the road for an extent of some miles, would have been at once rendered readily saleable at least at 1*l.* per acre, and that to the extent of fully paying the entire expense of constructing the road—a road readily convertible, if required, at any time into a rail-road.—6th. The whole of the above advantages, which would have tended greatly to economise labour, would have been in perpetuity for the benefit of the colony, and would have formed a convenient stepping-stone for the adoption of other improvements. Among other great benefits which the community would have received from this measure, Sydney would, no doubt, have been relieved by it of some thousands of her present surplus inhabitants, who, instead of being the mere consumers of farm produce, would have become producers, and would thus have rendered unnecessary the present immense importations of grain, &c., a matter of still greater moment than at present among those periods when we become, as of late, a point of copious immigration. In fact those very individuals who are now drawing their moneys from the savings' bank to purchase their wretched tiny allotments in the immediate vicinity of Sydney, or rather in Sydney itself, would have become purchasers of small farms on each side of the road to Goulburn, finding they would have secured to them both an abundance of water and easy transit for their supplies and produce to and from their lands. If such would have been the fruits of the above plan in its limited extent, what would they have been had the plan been extended, had no colonial capital been abstracted from the colony, at least for the importation of our late supply of immigrants, and those moneys had been employed at once on the same principle on internal improvements!

I need scarcely urge that, notwithstanding the abolition of transportation with assignment had been adopted, impolitic and injurious as I conceive that measure to have been, if viewed merely as the discontinuance of the most humane, reformatory, and economical mode of punishment that ever was devised, still the almost unparalleled prosperity of this colony would scarcely have been disturbed, our debts to England would every shilling have been paid, or rather would, properly speaking, have never been incurred, and we should have been in a position to receive, feed, and give employment, or a happy home, to any amount of immigrants that might come to us, whilst the immensely increased market which we should have opened to English manufacturers would have afforded employment and food to thousands of British operatives, to the vast and perpetually increasing relief of all classes in the parent country.

But the question now arises in what way or by what means were the Australian colonies to be adequately furnished with British emigrants.

There are two obvious modes, which may be brought into operation either separately or conjointly. The first of these was pointed out in my letter of 31st May, 1839, par. 43, 44, 45, addressed to Mr. C. Buller, under the direct sanction of the Patriotic Association and a recent public meeting of the inhabitants, and which is printed in the Appendix to the highly talented

Copy herewith.

NEW SOUTH WALES.

Report on Transportation of my honourable and learned colleague, Mr. Wentworth, of the last session of our legislative council, by which it is proposed to defray the whole of the expenses of emigration to the Australian colonies out of the savings on transportation, with assignment, as practised in this colony. The other plan which I am about to propose, is that, whether transportation with assignment be renewed or not, the entire expense of emigration be defrayed either by the parishes from which the pauper surplus population is sent, or by the parishes and the Imperial Government conjointly, as may be agreed upon.

The great gain that would arise to the parishes even if the entire expense were defrayed by themselves is clear, inasmuch as if it amply paid the Imperial Government to rid themselves of their convicts by sending them to these colonies at their own sole expense, notwithstanding the heavy subsequent annual outlay on their penal establishments in these colonies, and which were rendered alone necessary by that system—how infinitely more advantageous it would be to the parishes at home to rid themselves of their surplus labourers by sending them to these colonies—even at their own sole expense, when it is considered that this operation, while it would rid them of such labourers and their descendants for ever, would not be connected as in the case of the Imperial Government in respect to their convicts, with any subsequent liability or expense of any kind—while such a system instead of creating fresh competition against the labourer at home, and assisting to throw him out of employment, as must be too often the case with those who emigrate to the Canadas or the United States; or being at least the means of aggrandizing a foreign and rival power; every emigrant to these colonies would unavoidably be a producer of exports and a consumer of British manufactures, both of which would afford employment to his countrymen at home, and assist to form a power that ere long would be the appropriate balance to the vast commercial and territorial encroachments of the United States on the opposite shores of the Pacific.

One remark I would beg with all deference to offer in this place: should the British Government think proper to adopt the views developed in this paper, and in doing so create a series of colonies in the Australian hemisphere worthy of our country and these vast and splendid possessions, let them at the same time be prepared to grant to such colonies the freest possible political institutions, without one taint or stain of feudal barbarism, calculated not merely to meet, but, if possible, to anticipate the growing enlightenment of the age,—and thus would our parent country not merely create, but attach to herself a new empire, a vast addition to, but at the same time an integral part of herself, secured to her not merely by the ties of language and of blood, but the still stronger bonds of a sense of rational gratitude and of indissoluble self-interest.

I will now beg to conclude this letter with many apologies for its length and its imperfections, which I trust will be viewed with some degree of indulgence as connected with my present state of health, by which I am prevented from correcting, more particularly from giving it that degree of condensation which I have no doubt it requires. I must, however, in candour add, that but for that very state of health which has precluded me from all other occupations, I doubt much whether under my present numerous engagements this letter could have been written.

Begging that your Excellency may be pleased to transmit the enclosed copy of this communication to the Right Hon. the Secretary of State for the Colonies,

I have, &c.,

To His Excellency Sir Charles Augustus FitzRoy, Governor-in-Chief, &c., &c.

W. Bland.

Encl. 2 in No. 9.

Enclosure 2 in No. 9.

Extracts from the Votes and Proceedings of the Legislative Council.

Votes, No. 43, *Friday, July* 23, 1847.

2. Minimum Upset Price of Land:—Mr. Foster moved, pursuant to notice, That a Select Committee of Ten Members be appointed to inquire into, and report upon, what ought to be the Minimum Upset Price or Prices of Land in the various Counties and Districts of New South Wales.

Debate ensued.

Question put and passed; and the following Committee appointed accordingly:—

Mr. Foster,	Mr. Icely,
Mr. Robinson,	Mr. Lowe,
Mr. Windeyer,	Mr. Suttor,
Mr. Cowper,	Mr. Lamb,
Mr. Faithfull,	Mr. Allen.

Votes, No. 48, *Tuesday, August* 3, 1847.

7. Orders in Council respecting occupation of Crown Lands:—The Colonial Secretary laid upon the table the copy of a Despatch from the Right Honourable the Secretary of State for the Colonies, dated 30th March, 1847, No. 120, containing a copy of the Orders in Council respecting the occupation of Crown Lands.

Ordered to be printed.

Votes, No. 52, *Tuesday, August* 10, 1847.

4. Orders in Council regulating the occupation of Crown Lands:—Mr. Lowe moved, pursuant to notice, That the Despatch of the Right Honourable the Secretary of State for the Colonies to His Excellency the Governor, dated 29th November, 1846, and also that dated 30th March, 1847, enclosing the Orders in Council respecting the occupation of Crown Lands, be referred to the Committee appointed to inquire into the Minimum Upset Price of Land, as also the Orders themselves.

Question put and passed.

Votes, No. 56, *Tuesday, August* 17, 1847.

2. Territorial Revenue from 1831 to 1846:—Mr. Foster moved, pursuant to notice, That an Address be presented to His Excellency the Governor, requesting that His Excellency will be pleased to cause to be laid upon the table of this House, a Return of the Territorial Revenue of New South Wales, (including the District of Port Phillip,) from the year 1831 to 1846 inclusive, containing a statement of the quantities of land put up and sold at 5*s.* an acre, 12*s.*, and 20*s.* an acre, and upwards; special surveys and town allotments; also specifying the sums received for such, the rents of land let by the Crown, the amount of quit-rents received, and the money paid for their redemption; the amount received from the Agent of the Church and School Estates; the sums received by the Commissioners for reporting upon claims to grants of land.

Question put and passed.

Address to be presented by the Speaker, the Colonial Secretary, and the Auditor-General.

Votes, No. 59, *Friday, August* 20, 1847

2. Territorial Revenue from 1831 to 1846:—The Colonial Secretary laid upon the table Return to the Address on this subject, adopted, on motion of Mr. Foster, on the 17th instant.

Ordered to be printed.

Votes, No. 60, *Tuesday, August* 24, 1847.

3. Territorial Revenue from 1831 to 1846:—Mr. Foster moved, pursuant to notice, That the Return to his Address, in reference to the Territorial Revenue, laid upon the table on the 20th instant, be referred to the Select Committee now sitting on the Minimum Upset Price of Land.

Question put and passed.

Votes, No. 80, *Tuesday, September* 28, 1847.

2. Minimum Upset Price of Land:—Mr. Cowper presented a Petition from certain Magistrates, Landed Proprietors, and Residents of the Borough Town of Liverpool and its neighbourhood, praying the Council to make such a representation to the Home Government as shall have for its object to effect a reduction in the Minimum Upset Price of Land.

Petition read and received.

3. Squatting Leases and Minimum Upset Price of Land:—Mr. Lowe presented a Petition from certain Landholders, Merchants, Traders, and other Inhabitants of Goulburn and the surrounding Districts, praying the Council to address His Excellency the Governor for a limitation in the Leases to be granted under the Orders in Council, to a period not exceeding five years, whether within the unsettled or intermediate Districts, and for a reduction of the Minimum Upset Price of Land to 5*s.* per acre, in blocks of not less than 640 acres.

Petition read and received.

5. Report on Committee from Minimum Upset Price of Land:—Mr. Lowe, as Chairman, brought up the Report and laid upon the Table the Evidence taken before the Select Committee appointed on the 23rd July last, to inquire into and report upon what ought to be the Minimum Upset Price or Prices of Land in the various Counties and Districts of New South Wales.

Ordered to be printed.

List of Witnesses Examined.

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NEW SOUTH WALES.

1847.—New South Wales.

Report from the Select Committee on the Minimum Upset Price of Land.

The Select Committee of the Legislative Council, appointed on the 23rd July, 1847, "*to inquire into, and report upon, what ought to be the Minimum Upset Price or Prices "of Land in the various Counties and Districts of New South Wales,*" have agreed to the following Report:—

It appears from the testimony of all the witnesses examined—whether favourable or unfavourable to the maintenance of a high minimum price—and even from the Despatches of Sir George Gipps himself, that the sum of 1*l.* does not in any degree represent the exchangeable value of an acre of land in New South Wales. The declaration of Parliament, therefore, that land shall not be sold till it realize 1*l.* an acre, is a declaration that land shall not be sold till it will realize more than it is worth; in other words, that except under very particular circumstances, land shall not be sold at all. That such has been the practical effect of the measure will be evident from the following table of the sums realized from the sale of land since the year 1837:—

Year.	Crown Lands sold at 5*s.* per acre. Country.	Crown Lands sold at 12*s.* per acre. Country.	Crown Lands sold at 20*s.* per acre. Country.	Crown Lands sold at Upwards of 20*s.* per acre. Town.	Crown Lands sold at Upwards of 20*s.* per acre. Country.	Special Surveys.	Total sold.	Total Amount for Lands sold.
	A. R. P.	A. R. P.	A. R. P.	A. R. P.	A. R. P.	A. R. P.	A. R. P.	£. *s.* *d*
1837	368,483 0 6	..	..	212 2 35	..	..	368,695 3 2	121,962 12 5
1838	315,059 2 10	..	..	228 2 26	30 0 0	..	315,318 0 36	128,865 6 3
*1839	249,896 3 18	30,218 0 0	2,664 0 36	2,785 1 38	351 1 8	..	285,915 3 20	166,713 11 4
1840	68,873 3 13	111,720 0 0	2,058 1 8	5,525 0 1	1,291 1 34	..	189,468 2 16	324,072 3 1
†1841	..	16,430 0 0	3,310 0 0	248 2 34	153 1 16	66,199 0 0	86,341 0 10	92,636 10 9
‡1842	..	4,898 0 0	1,340 2 4	170 0 7	471 3 34	15,023 0 0	21,903 2 5	18,312 13 2
§1843	..	616 0 0	3,205 2 31	157 1 39	717 2 0	121 0 0	4,817 2 30	12,205 14 8
1844	..	..	3,822 2 16	245 3 20	190 3 15	..	4,259 1 11	9,174 15 3
1845	127 0 0	..	4,440 1 33	1,754 3 20	945 1 5	..	7,267 2 18	18,025 15 6
1846	..	103 0 0	2,841 2 0	282 2 31½	3,791 1 2	..	7,018 1 33½	27,700 8 2
Totals	1,002,440 1 7	163,985 0 0	23,683 1 8	11,611 2 12½	7,942 3 34	81,343 0 0	1,291,006 0 21½	919,669 11 1

From this table it will appear, that the sum realized by sales of land in 1846 is less by 3000*l.* than one-fourth of the sum realized from the same source in 1837. It will also be observed, that in the five years which have elapsed since the raising of the minimum price to 1*l.* an acre, the whole sum realized by land sales is not quite 80,000*l.*, or two-thirds of the sum realized in the single average year 1837; and the whole number of acres sold about 45,000, or less than one-eighth of the number sold in 1837. The result is more strange, when it is observed, that in 1837 the population of the colony amounted to 85,000 persons, while, in 1846, the population amounted to upwards of 196,000. Thus by unwise legislation has the permanent settlement been retarded in proportion as the demand for it has increased; and thus is the fallacy, that land can be made saleable at this price by the introduction of population, practically refuted. But it has been said by Sir George Gipps, that it is to the insolvency, which was unfortunately so general a few years ago, and not to the high minimum price, that the cessation of land sales is to be attributed. If so, we may expect to find the same paralysing influence extended to all markets as well as the land market. The comparison of 1837 with 1846 will completely show the fallacy of this suggestion. In 1837 the value of exports from the colony was 760,000*l.* In 1846 the value was 1,481,000*l.*, or nearly double. In 1837 the ships entered inwards were 400, of the burden of 80,000 tons. In 1846 the ships entered inwards were 767, of the burden of 141,000 tons. In 1837 the proceeds of sales by auction were 321,000*l.*; in 1846, 414,000*l.* In 1837 the coin in the treasury, military chest, and banks, was 427,000*l.*; in 1846, 827,000*l.* Thus, while our exports, our shipping, our circulating medium, and our population have doubled; while the proceeds of sales by auction have increased one-fourth, the proceeds of sales of land have decreased by more than three-fourths. Surely this must satisfy every impartial mind, that the recent insolvencies cannot be the cause of the falling off of the proceeds of the Land Fund, since, had they been so, they would have affected all interests alike; the cause is unfortunately only too evident; the producer of colonial exports is content to sell his commodity at the price which it will bring; the ship-

Note.—In the year 1831, Lord Ripon's Regulations for the abolition of Free Grants, and the sale by auction of all Crown lands, were first promulgated in the colony.

* 1839.—In this year the minimum price was raised from 5*s.* to 12*s.* an acre, but did not extend to lands previously advertised at the former rate, of which there was a very large quantity at the time.

† 1841.—In this year the system of sale at a fixed price of 1*l.* per acre was introduced into the district of Port Phillip.

‡ 1842.—In this year the system of sale by auction was resumed throughout the colony, at a minimum upset price of 12*s.* per acre for country lands, with liberty to select portions not bid for at the upset price.

§ 1843.—In this year the minimum price was raised to 1*l.* per acre, by the Act of the Imperial Parliament, 5th and 6th Vic., c. 36, with liberty to select, at the upset price, country portions put up to auction and not bid for, or on which the deposit had been forfeited.

owner looks only for the current rate of freight; the importation of capital is regulated by the rate of exchange; but the Government, the great proprietor of land, refuses to regulate its dealings by these principles, repudiates the doctrine of supply and demand, and insists upon holding this commodity, of which it has practically the monopoly, till it realize a price, of obtaining which no practical man can see the probability or even the possibility. Thus, while every other branch of industry is carried on with the greatest activity and success, the settlement of the country, to which they ought all to be considered as subsidiary, stands still, and the mind is astonished by the anomalous spectacle of a colony active, enterprising, and energetic in all things, except the one alone for which it was founded—colonization.

It seems impossible to reconcile this system not only to any views of sound policy, but to any policy at all. If the Government regard these lands as a mere vehicle of revenue, as the means of raising the largest possible sum, narrow and unstatesman-like as such a view may be, this is not the way to carry it out. The figures above quoted show that the price is so exorbitant, that every other element of wealth in the country may double and leave it still a virtual prohibition. How often this multiplying process is to be repeated before the pressure of population and the increase of wealth will render these lands saleable at 1*l.* an acre it is impossible to say; but to judge by the moor lands of England, and the bogs of Ireland, the period is yet extremely remote. It must also be remembered, that even if the Government should succeed in selling land at 1*l.* an acre 20 years hence, for which now only 5*s.* could be obtained, the Government, allowing for compound interest at the rate of interest which money now commands in the colony, is considerably a loser; add to this, that by destroying the Land Fund, the Government is not merely foregoing a revenue which would be cheerfully paid and easily collected, but it is destroying future revenue by arresting the influx of that labour from which land derives so much of its value. It is not merely refusing to sell a commodity, but it is depreciating that commodity for ever. The supply of land which may become saleable by the Government is, for all practical purposes, infinite. What quantity will become saleable, depends upon the increase of population. Government, therefore, as a mere dealer in land, has a direct interest in selling so much of it as will keep the tide of population continually flowing towards its yet unsold possessions.

It is also the interest of Government to attract capital. In this also it has signally overreached itself. The principle of a uniform fixed price contains in it this objection, that that price must be tolerably high, since upon it alone the Government relies to protect its interests, but it has the countervailing advantages of certainty of amount and facility of operation. The principle of sale by auction has not these advantages, but it offers to the capitalist the attraction of referring not to any arbitrary standard, but to fair competition to fix the value. The Government has rejected all that is attractive in each of these systems, and retained only what is repulsive. Enough of the fixed price is retained to make the purchaser sure that he will not get the land cheap; enough of the principle of competition to make him uncertain whether he shall get it at all.

The facilities of steam and railway communication are gradually drawing mankind together, and countries possessing wild lands for sale, are beginning to enter into competition with each other. It is becoming daily more impossible to regard this as an isolated question. In determining the price of land, the competition of other countries ought not to be left out of sight. At the Cape of Good Hope land can be obtained for one-tenth, in Canada for one-fourth, and, as it appears recently, in the United States, for one-fortieth of the sum demanded for a like quantity here. In utter defiance of the principles of political economy, it is expected that persons will give for our poor and inaccessible land four, five, ten, or forty times the price at which nearer and more accessible land may be obtained. It is assumed that one acre of land in Australia equals in value four in Canada, five in the United States, 10 at the Cape of Good Hope, and 40 in the territory recently ceded to the United States by the Chacktaw Indians. Your Committee apprehend, that as regards the greater part of the lands of this colony, it is perfectly immaterial whether the minimum price fixed be 1*l.* or 20*l.* an acre. The former price is shown, by reason and experience, to be utterly unattainable, and the latter is no more.

Your Committee would wish to be understood as by no means undervaluing the great advantages derived by the colony from pastoral pursuits, but they are desirous of expressing their opinion that the Home Government, by prohibiting the sale of land, has given an undue stimulus to those pursuits, and undue discouragement to agriculture and settled industry. The prohibition of the purchase of land has aggravated that tendency to dispersion which it was designed to counteract. The true policy, in the opinion of your Committee, is neither to stimulate nor check this tendency to dispersion which is the natural precursor of that state of society in which the tendency to concentration arises. Unhappily the Government has not observed this rule. In its anxiety to concentrate the population, it has placed a price on land which rendered it impossible for those who occupied it to occupy as purchasers. The occupation has been conceded, the proprietorship has been withheld, and thus has the industry of the colony been forced into the channel most consistent with occupation without title, and the policy which ambitiously aimed at forcing the colonists prematurely to become villagers and agriculturists, has resulted in compelling them to become shepherds and herdsmen. Had the prohibitory price thus imposed been the result of a sincere though mistaken conviction, your Committee, while deprecating its impolicy, could not have murmured at its injustice. But it is now notorious in the colony, and can be proved by unquestionable evidence, that it was not with a view to the welfare of New South Wales, but of South Australia, that this obnoxious law was passed. Colonel Torrens and his brother Commissioners, the founders of the South Australian Colony,

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felt that it would be impossible to obtain 1*l.* an acre for land there, while land of the same quality could be obtained at 5*s.* an acre here. They felt that whatever were the merits of their scheme, it would not bear the test of the free trade principle of competition, and they sacrificed, without remorse or hesitation, the present and actual interests of the older colony, to the future, and, as it has turned out, visionary prospects of the younger. Thus it happens that 200,000 persons are impoverished, that their interests may not stand in the way of the imaginary interests of 25,000; and while colony after colony has been emancipated from the 1*l.* an acre system, New South Wales has been unable to obtain her deliverance, precisely because, to her, that deliverance would be most valuable. Van Diemen's Land is of too small extent—New Zealand is too distant—to impair, by their competition, the working of the 1*l.* an acre system in South Australia. If the land of New South Wales were rich, the continuance of the price would be a matter of indifference; if the land were small in quantity, the reduction of the price would be unimportant; it is the great quantity and poor quality of the land—the very causes which render the high price ruinous to New South Wales—that constitute its principal attractions in the eyes of the South Australian Commissioners.

But happy would it have been for the colony if the ruin of her Land Fund, the dispersion of her people, the stoppage of immigration, and the dissemination of a spirit of just discontent, had been the only results of this high mininum price. The most unforeseen but by far the most serious result of this prohibitory policy is embodied in the Act of the Imperial Parliament, 10 Vic., ch. 10, and the Land Orders issued under it, which have been referred to your Committee by a vote of the Council.

Your Committee have hitherto considered the minimum price of Crown Land as a separate question; they now proceed to regard it in its collateral effects, and to show how the terms on which land is sold influence the tenure on which unsold land is occupied. It was in the power of the Imperial Parliament to enact that land should not be sold for less than 1*l.* an acre; but there, unfortunately, its power stops. It could not make the land worth the sum, nor declare, because it was unsold, it should be unoccupied, nor prevent those who thus occupied it from drawing the inferences which their situation naturally suggested. Those inferences were only too obvious and too reasonable. The squatters, forced to occupy and forbidden to buy—forbidden, by the policy of the Government, to acquire lands by purchase, and allowed to occupy till that impossible event should take place, saw that they had obtained, through the impossibility of purchase, all that a purchase could have given them, and that the law which rendered these lands unsaleable virtually gave them away to their present occupants. Hence arose a party in the colony unknown before, who began to feel that they had a vested interest in maintaining the prohibitory price, as a guarantee that their occupation would never be disturbed. The policy of Sir George Gipps, who endeavoured to counteract the growing feeling of security entertained by the occupants of waste lands, not by abrogating the prohibitory law on which it rested, but by an arbitrary strain of the powers of the executive, served only to accelerate the crisis which nothing but a repeal of that law could prevent. The result has been, that the Home Government has been induced to take another step in advance, and by treating the imagination of 1*l.* an acre as a reality, and leasing the Crown lands to their present occupants till sold at 1*l.* an acre, has in a manner alienated the land possessions of the British Crown in New South Wales. The most cursory perusal of the evidence appended to this Report will satisfy any one that this is the opinion of those alike who approve and who disapprove of the Land Orders; nay more, that it is this opinion, in which they both agree, which induces them to approve or disapprove. The settlers object to these Orders, because they confiscate the lands of the colony; the squatters approve of them, because they see no limit to the term of their occupation under them. Be it for good or for evil, it should clearly be understood that this is the effect unanimously attributed in the colony to these Land Orders.

Your Committee now proceed to examine these orders in detail, and first they would observe that if the minimum upset price of 1*l.* an acre is to be maintained, the lands are substantially divided by these orders only into two classes, the confiscated and unconfiscated; the former being equivalent to the intermediate and unsettled, the latter to the settled districts. If land is to remain in the possession of its present occupant till sold at 1*l.* an acre, it matters not whether he hold a lease for eight or fourteen years; whether it is liable to be put up at auction at the end of every year, or at the end of every fourteenth year; or whether he have or have not a right of pre-emption. It is his, and his for ever, not because his title is good, but because no one will be in a condition to avail himself of its defects. The auction will never be demanded, the right of pre-emption will never be exercised, for no one will be foolish enough to buy that which is his own already without purchase. The efficacy of the minimum price of 1*l.* an acre in confiscating is so complete, that the grant of a renewable lease of 14 years adds little to it. It is only in the event of a reduction in the minimum upset price that any practical difference will arise between the intermediate and unsettled districts. If that reduction be withheld, they may both be treated as one district, a district containing lands alienated from the Crown as completely as by the most solemn instrument of sale.

Adverting to the local division of the colony contained in these orders, your Committee cannot but express their surprise that so narrow a space should be allotted to the settled and intermediate districts respectively, and that these divisions should have been framed with so singular a disregard of the local peculiarities of the country. The district within 25 miles of Melbourne is already nearly all sold. The country 10 miles round Portland, and the banks of the Glenelg principally consist of impracticable scubs; and the banks of the Richmond River, 20 miles from the sea measured along the river, are utterly valueless from the fact that the river runs parallel to the coast through a sandy country, and that this point, 20 miles up

the river, is only five miles from the sea; surely the reservation of these places as part of the settled districts was made in ignorance of these facts. Your Committee also would venture to express a doubt how far it is competent for the Privy Council to delegate to the Governor of this colony the power which is delegated to them by the 6th section 10 Vic., chap. 10. The existence of any intermediate districts in the colony of New South Wales Proper other than the small county of Auckland, entirely depends on the validity and exercise of this delegated power. Your Committee may observe, in passing, that there is no such place as Bathurst, in the county of Roxburgh; and that Bathurst in the county of the same name, and the towns of Port Macquarie and Ipswich, and the adjacent country, being already in the settled districts, the reservation was superfluous.

Proceeding on to the second chapter of the Orders, your Committee remark a conflict between the 1st and 11th sections. The 1st empowers the Governor to grant leases of runs of land within the unsettled districts for any term or terms of years not exceeding 14 years. The 11th section provides that all occupants of Crown lands who shall have been in the licensed occupation of the same for at least one year at the time when this Order in Council shall come into effect, are to be entitled to demand leases of their respective runs under the present regulations. These two sections it seems extremely difficult to reconcile. The former appears to give a discretion which the latter withholds. This is a point of very great importance. If the 11th section is to prevail over the 1st, the result will be that those who have monopolized large tracts of lands, which they have been unable to stock, will be entitled to the use of them in perpetuity, without the merit, such as it is, of having turned them to their own account. If the 1st is to prevail over the 11th, the Governor will have a discretion, which your Committee trust he will exercise, to limit the lease of land to the quantity *bonâ fide* occupied. The period of the lease, both in the unsettled and intermediate land, appears to be left entirely to the discretion of the Governor; and your Committee are of opinion that such discretion ought to be most vigilantly exercised, since, indeed, upon its exercise may depend the future destinies of the country.

The object of the prohibition to cultivate contained in this section, is of course sufficiently manifest; it is intended to compel the purchase of land, by giving the owner in fee simple a monopoly of the employment of agriculture. Your Committee object to this expedient as utterly inconsistent with the principles of economical science. It appears to them to be an unsound policy to tax the consumer of agricultural produce for the sake of enhancing the Land Revenue, and because that land is found not to be worth the price which Government demands for it, to eke out that value by giving to the purchaser a monopoly of agriculture. If, however, there was any prospect that this price could be obtained for any considerable quantity of land, the objection might be thought rather theoretical than practical, but as land will never be sold to any extent at the present minimum price, the prohibition to cultivate it before sale is nothing more or less than an absolute prohibition of cultivation altogether. It is the peculiar infelicity of the policy of Government that it renders the land unsaleable, and at the same time annexes the most ruinous conditions to occupation without purchase—that it renders it impossible to buy, and then punishes the colonists for not being able to overcome the impossibility which it has created; that having first decreed that land shall remain unsold, it superadds the condition that when it is unsold it shall be uncultivated. Out of a territory of 300,000,000 acres, not 25,000 have been sold in the last four years, and the 300,000,000 acres are to remain desolate till they are bought at this rate, an operation which would require for its completion 48,000 years.

On the second section your Committee remark that the rate imposed is extremely small, being three-fifths of a penny for every sheep. The runs allowed for 4000 sheep, under the present licensing system, vary from 16,000 to 25,000 acres, the lowest calculation being four, the highest 6¼ acres for each sheep. Taking the lowest of these calculations, the rent to be paid by the squatter for each acre is three-twentieths of a penny, a rent which, at 12 years' purchase, will place a value upon the land of one penny and four-fifths per acre. Assuming a sheep to require six acres to feed, the rent demanded will be one-tenth of a penny, which, at 12 years' purchase, will place a value on the land of one penny and one-fifth per acre. Thus, while those who are so unfortunate as to have obtained free grants, are required to pay for the land so granted a quit-rent of 2*d.* per acre, the licensed occupant of Crown Lands is entitled, under the modest name of a lease, to a virtual grant at a rent, the capital represented by which, estimated by the current rate of interest in the colony, falls short, in the more fertile lands, by four-fifths, and in the less fertile lands, by one-fifth of a penny of the sum which the *bonâ fide* grantee of the Crown is charged as quit-rent. Again, the whole of the sold land of the colony was bought at 5*s.* an acre and upwards; this would be 12 years' purchase of a rent of 5*d.* per acre; and making a liberal allowance, that every acre so purchased, gives the command of three other acres of back run—a rent of one penny and one farthing per acre—a sum somewhat more than that which the squatter is to pay for what, under the existing regulations, may be considered the fee simple. Can it be wondered at, that the older colonists, the grantees and purchasers of Crown Lands of former years, should feel indignant at seeing millions of acres of land, much of which is superior in situation and fertility to any from which they were allowed to select, thus recklessly lavished at prices less than the quit-rents or the interest of the purchase money they have paid? Can it be wondered at that they see with feelings of the bitterest disappointment, a policy which must make land, the commodity for which they have paid the Government so dearly, a drug—which must annihilate the capital vested in land, and expose the purchaser for a good consideration, to a ruinous competition with the occupant who acquires land at a nominal price?

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It appears also by this section, that each run is to be capable of supporting at least 4000 sheep; and as by the 1st and 11th sections it is only of runs that leases can be granted, it follows that every person who may be so unfortunate as to occupy land which is capable of supporting only a smaller number than 4000 sheep, is excluded from the benefit of the Orders in Council; and consequently a considerable number of the more humble squatters will be dispossessed to make way for their richer neighbours. Why these persons are thus to be dealt with it is impossible to conjecture; but it does seem to your Committee to be hard, that not only the present and future welfare of the colony at large, but even the poorer of their own class should be sacrificed to the aggrandizement of the wealthier squatters,—that the many should be sacrificed to the few, and the weaker among the few should be sacrificed to the stronger. Your Committee also observe, that it appears under this section that the same sum is to be paid for a run capable of supporting 4900 sheep as for one which can support 4000 only—the calculation being by thousands.

As regards the sixth section, your Committee would call attention to the evidence of Mr. Marsh, who suggests that if any land be wanted for any agricultural purposes, it will be competent to the squatter to exercise his pre-emptive right, and then sell or let the land so acquired to the intending cultivator, a suggestion which shows that not only do these regulations give the squatters a monopoly of the land, but also a power of retailing it, together with the concomitant monopoly of agriculture, to his fellow colonists on such terms as he may think fit. A consequence so manifestly unjust that your Committee are happy to think that the high price at which this pre-emptive right is granted will render it unfrequent, and, therefore, however objectionable in theory, of no great practical importance.

On the 9th section your Committee would observe, that it seems to leave the real grievance of the squatter's position precisely where it found it; the real grievance of the sqatter's position was the uncertainty of his tenure, not as against his fellow colonists but as against the Crown. As against his fellow subjects possession was title, and from any disturbance by them, the law, as long understood and practised in the colony, amply protected him. To the Crown he was a mere tenant at will, liable to be ejected at any moment, occupying a position at once degrading and precarious. It is the singular anomaly of these Land Orders, that while as against his fellow subject, the actual colonist, or intending emigrant, they fertify the squatter with every muniment which can give permanence to possession; as against the Crown, they leave him as they found him, utterly defenceless. Nothing in the leases is to prevent the Governor from disposing of the land within the runs, for any purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement of the colony. Words more explicit, and more comprehensive to denote the absolute dependence of the squatter upon the Government, could not possibly have been employed. It is said that the Government would not use the arbitary powers which it enjoyed under the former system; this may possibly be so; it is not necessary that it should use them; it is quite sufficient for the purposes of servitude and degradation that it should possess them. A country inhabited by tenants at will of the Crown is a degraded and miserable land, whether the Crown exercise that will or not. The genius of British institutions is the distrust of arbitrary power. They will not wait to see whether it is abused, they do not tolerate its existence, they guard not so much against the suffering of an individual who may be oppressed as against the slavish spirit which is generated in a community in which oppression is possible. While the executive is strong enough to oust the squatter, he will be its most obsequious dependent, and the same uncertainty of tenure will naturally hold out to him the strongest inducement to resist the executive the moment he can do so with safety, not so much for the purpose of political freedom as for the sake of security to his property.

The 16th section seems to be drawn with the express object of, as far as possible, discouraging the sale of land. If no part of the run be sold, the lessee, it should seem, is entitled to a renewed lease at the former rent. If any part less than one-quarter be sold, to a renewed lease but at an increased rent, and if one-quarter be sold, his right of renewal is gone for ever. Thus at the expiration of his lease, he who has bought no land will be in a better position than he who has bought some land, and he who has bought some very small portion of land will, in his turn, be in a better position than he who has bought one-fourth.

The provision contained in the 4th chapter of the Orders, for granting leases, for exclusively pastoral purposes, will have the effect, it appears by the evidence of Mr. F. Macarthur, of ruining many industrious persons, who, utterly unable to purchase land at 1*l.* an acre, have employed themselves in the cultivation of waste lands, to the great advantage of the settlers by whom they are surrounded. To this class of persons the observations of your Committee, with regard to the prohibition of agriculture, will equally apply. The effect of this regulation can only be in addition to the other evils inflicted by the high minimum price—to diminish the quantity, and increase the price of food to the whole community. This is the fourth class of persons who will be sacrificed, under these land regulations, to the aggrandizement of the squatters. The first are the grantees and purchasers of Crown Lands, who find such lands depreciated to nothing, by the lavish prodigality of the Government; the second are the smaller squatters, who, not possessing 4000 sheep, or an equivalent quantity of cattle, are not entitled to runs; the third are they who cultivate land in the unsettled or intermediate districts; and the fourth are those who cultivate land within the boundaries, on leases from the Crown. When we add to these individual injuries the destruction of the Land Fund, the suppression of immigration, the locking-up of the land, the prohibition of agriculture, and the poli-

tical degradation with which these Land Orders are fraught, surely we have a right to ask what are the countervailing advantages which induced the home Government to carry out this system of policy. Those real, or imaginary, advantages are detailed in the despatch of the Right Honourable the Secretary of State for the Colonies, of November 29th, 1846, which your Committee now proceed to examine.

Your Committee remark, with pleasure, that Earl Grey begins by stating that the rules to be enforced as to the temporary occupation of land are, of necessity, closely connected with those respecting its permanent alienation. To the truth of this remark your Committee entirely subscribe, and they believe upon its right application depends the solution of the land question. But it never should be forgotten, that if the rules respecting the permanent alienation of the land be impracticable, as in New South Wales, the rules designed for its temporary occupation lose their temporary character, and become, really, the conditions of its permanent alienation. Temporary occupation in this colony is equivalent to permanent alienation, because the permanent alienation contemplated by Government is impracticable. The first part of Earl Grey's Despatch consists of an argument to prove that alienation by sale is preferable to free grants. Admitting this to be true, your Committee are at a loss to see how it follows, that because sale is better than grant, it is better to prohibit sale by an inordinately high price than to promote it by a moderately low one. It seems strange to urge the expediency of sale in defence of a policy the effect of which has been to put down sale altogether. Your Committee are as anxious as his Lordship to return to the system of selling land; but your Committee apprehend that can only be effected by the Government submitting to part with land for what it is worth. The system which the Government is really, though unconsciously, pursuing, is a system of grants on the most lavish and extravagant scale; that it is so cannot be better proved than by observing that every evil which Earl Grey deprecates in the old granting system appears in an aggravated form in these Land Orders. The first evil which his Lordship points out is, the allotment of land to individuals at the discretion of the executive, with the risk of suspicion or abuse. By the section 1, cap. 2, of the Land Orders, the Governor is empowered to grant leases to such person or persons as he shall think fit. Now, what species of ownership do these leases confer? That it is an ownership little short of freehold appears abundantly from the evidence of those who expect to be their recipients. It appears, therefore, that the danger of abuse is exactly equal in the one case and in the other. The next evil of the system of grants mentioned by his Lordship is, that Government must either suffer all desirable land to be permanently appropriated or interfere with the free management of private property. In the present instance Government has done both these things; it has appropriated about 180,000,000 of acres of land to about 1800 persons, and that in a country whose population is not 200,000, and it has endowed this favoured class with land at the rate of 100,000 acres per head in a country where there is one inhabitant to every 100,000 acres; this certainly has the appearance of being premature. The Government has coupled this premature appropriation with a regulation prohibiting agriculture which cannot be more aptly described than in the words of the Despatch, "As greatly interfering with that free management of their own property by individuals which is so essential to its improvement." The next evil the Despatch mentions is dispersion; and surely a system which allots on an average 100,000 acres to a single individual cannot, so far as dispersion is concerned, be outdone by the wildest abuse of free grants. Government does not leave men to themselves, but enforces dispersion, while it thinks it is compelling concentration. Co-operation, the division of labour, religious and secular instruction, are all out of the question. Your Committee may here remark, that the above enumerated ill effects of the system of grants, however much they may have been felt in other colonies, have been little experienced in Australia. Hitherto this colony has not had to complain of the accumulation of landed property in the hands of the few to the exclusion of the many, and of the consequent dispersion and stagnation of improvement. It is only since the establishment of the high minimum price that the colony has been threatened with these evils, and it certainly does strike your Committee as strange to find the minimum price thus advocated, on the ground of its tendency to prevent those very disorders of which it is the sole and all-sufficing cause. It cannot be too often repeated, that to place a prohibitory price on land is only a round-about way of granting it to its present occupants without the safeguards with which a direct and avowed system of granting may be accompanied. As to the benefits which have been derived by New South Wales from the sale of waste lands, your Committee are not prepared to dispute them, but they would observe, that the million of money which has been raised, and the 50,000 immigrants who have been introduced in the last ten years, must be referred to the sales effected during the first five years of that period, when land was under 20*s.* an acre, and not to the last five years, when land was at the present price. The gross proceeds of land sales during the last ten years are, in round numbers, 920,000*l.*: 85,000*l.* of this sum is the amount received for land during the last five years, 835,000*l.* the amount received during the first five years of this period. Thus, if the sum raised from land has been the means of introducing 50,000 immigrants, 46,000 have been introduced by land put up under 20*s.* an acre, and 4000 only by land put up at 20*s.* an acre. In other words, had the price remained unaltered, we might have raised 2,000,000*l.* instead of 1,000,000*l.*, and introduced 100,000 immigrants instead of 50,000.

Earl Grey, in his Despatch, admits that much of the pecuniary embarrassment which has arisen in the colony is traceable to speculation stimulated by the high price of land. Your Committee apprehend that his Lordship is in error in making this admission. The present price of land has not merely checked, but has absolutely annihilated, speculation in land. Indeed, your Committee cannot but think that, so far from the exorbitant price demanded by

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the Government having led persons to form a corresponding estimate of the value of land, the exact contrary has been the case. That which is continually measured by a standard greatly too high is in a fair way to be depreciated even below its real worth. People acquire a habit of speaking contemptuously of that which is continually subject to a disadvantageous comparison. Had the minimum price of 5*s.* per acre been retained, and had persons been accustomed now, as before, to look upon the purchase of Crown lands as the natural legitimate investment for the surplus capital of the colony, instead of an unattainable chimera, your Committee cannot but believe that these exaggerated statements of the worthlessness of land in New South Wales, which are to be found in the evidence taken before them, and in the Despatches of the late Governor, Sir George Gipps, would never have been made. It is apprehended that in a new country like this, where there are no public stocks or securities, nothing can be better calculated to encourage a spirit of hazardous speculation than the prohibiting the investment of capital in land, and thus forcing it into other and less legitimate channels. Your Committee do not dispute the doctrine laid down in the Despatch, that it is labour which gives value to land, but they can draw from it no inference in favour of a policy which, by placing a prohibitory price on land, destroys the fund available for the introduction of labour. Nothing is more certain than that in a new country to put too high a value upon land is the way to render it valueless. Had the raising the price of land to a yet higher rate been the means of introducing a large number of the labouring classes, your Committee would gladly have acceded to it; but experience has taught them that it is not what the Government demands, but what purchasers are ready to give, which regulates the value of land, and that unless the former of these qualities be reduced to an equality with the latter, no land will be sold, and no labour introduced.

Your Committee cannot acquiesce in the proposition in the Despatch, that a high price of land and the squatting system will mutually support each other. It appears to them impossible the two systems can work efficiently together. They never have done so in this colony. If the price be high, the selling part of the system is in abeyance, and the squatting part alone in operation, and the effect will undoubtedly be that, instead of the high price maintaining the squatting system, it will convert it into permanent ownership. Nor will the squatting system maintain the high price, since it is obvious that the best way to deter men from acquiring a permanent ownership on hard terms is to give them a temporary occupation on easy terms; if the minimum price be low, the former will be the case; if high, the latter. In no case can the systems of sale, and occupation without sale, mutually support each other. Sale is the antagonist of temporary occupation, and this, in turn, the antagonist of sale. If sale be brisk, it destroys temporary occupation; if temporary occupation be prevalent, it deters sale; they are like the scales of a balance, one of which must be depressed if the other be elevated.

The important inquiry intrusted to your Committee has necessarily occupied so long a time, and the unavoidable delay in printing the evidence has been so great, that your Committee have been unable to report at an earlier period. Under such circumstances, it would be idle to recommend for the consideration of the Council any resolutions with respect to what ought to be the minimum upset price of land or otherwise, which, owing to the late period of the session, it would be impossible for them now to adopt. Your Committee therefore content themselves with submitting to your Honourable House the evidence which they have taken, and the conclusions which they have arrived at from a consideration of that evidence and the documents referred to them as embodied in the foregoing Report.

ROBERT LOWE, Chairman.

Legislative Council Chamber, Sydney,
September 27, 1847.

1847.—MINIMUM UPSET PRICE OF LAND.

MINUTES of EVIDENCE taken before the SELECT COMMITTEE on the MINIMUM UPSET PRICE of LAND.

Friday, August 13, 1847.

PRESENT:—

ROBERT LOWE, Esq., in the Chair.

GEORGE ALLEN, Esq.,	JOHN LAMB, Esq.,
CHARLES COWPER, Esq.,	JOSEPH PHELPS ROBINSON, Esq.
WILLIAM PITT FAITHFULL, Esq.,	WILLIAM HENRY SUTTOR, Esq.,
JOHN F. L. FOSTER, Esq.,	RICHARD WINDEYER, Esq.
THOMAS ICELY, Esq.,	

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F. Macarthur, Esq.

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Francis Macarthur, Esq., of Goulburn, called in and examined:—

1. How long have you resided in the colony?—I have resided in the colony about nineteen years, and at Goulburn seventeen.

2. This Select Committee has been appointed to inquire into and report upon what ought to be the minimum price or prices of land in the various counties and districts of New South Wales; are you of opinion that there ought to be one minimum price or various prices according to the district?—I think various prices.

3. Will you state your reasons?—The quality of the land varies. All through the colony, so far as I have seen (that is merely to the southward), on the banks of rivers and near streams, there are soils fit for any cultivation, perhaps equal to any in the world; these may be sold at a higher minimum price than mere grazing lands. I must at the same time qualify my statement by saying that I am not favourable to the system of sale by auction.

4. Which system would you recommend upon the whole?—I would upon the whole recommend an uniform price.

5. What price would you recommend as an uniform price?—I think that the price of land should be sufficiently low to render it accessible to persons of small means. The whole lands of the colony ought not to be deposited in a few hands. I cannot think that this colony ought to be doomed to be an everlasting sheep-walk; and though the colony has derived great benefit from sheep-farming, yet the land should be sold at a price that a man of small means, say with 100*l.*, or half that sum, might be able to purchase land, which at present is impossible.

6. What price would you say?—I should say 5*s.* an acre would be perhaps a fair price, and would answer the end we have in view; namely, to import labour, for without labour I must confess it is of very little consequence at what price you sell the land, whether at a farthing or at 5*l.* per acre—the colony cannot go on without labour.

7. You are of opinion that 1*l.* an acre is too high?—I am.

8. Will you state the grounds of that opinion?—I think experience has shown that it is too high; no land has been purchased for grazing purposes at 1*l.* an acre. There may have been a few acres, perhaps 20, 50, or even 100 acres purchased; but that has been close to a town, or merely to complete an estate; I am sure that in my immediate district there has never been a single acre purchased for grazing purposes at 1*l.* an acre.

9. (*By Mr. Lamb.*) Do you think much would be purchased for grazing purposes at 5*s.* an acre?—I do not think much would be purchased in the county I reside in, because there is very little good land left; the Crown lands are principally scrubby back runs.

10. (*By Mr. Foster.*) At what price do you think this land in Argyle would sell?—I think very few spots would sell even at 5*s.* an acre; there are a few sections here and there that would.

11. Would the average sell at 1*s.*?—I doubt it.

12. Would you propose to throw open all the lands in the territory of New South Wales for sale at once?—I do not think it would be judicious to throw open all the lands at once.

13. Do you think the lands beyond the boundaries would sell at a low price?—I think I know an immense tract of country which, if it were thrown open, would sell; the lands I speak of are beyond the boundaries, in the direction of Gundagai.

14. But you are of opinion that a great quantity would not sell at any price?—Within the nineteen counties?

15. I mean waste lands beyond the boundaries?—No; I think the waste lands to the southward are much better than the lands within the nineteen counties.

16. Do you mean to say that in very remote districts it would be possible to sell land at any price?—I can say nothing of such localities as Peak Range, but I can speak of land within 200 miles from the spot where I reside.

17. Are there not lands of good quality, but at so great a distance as to be unsaleable at any price?—I cannot speak of more than I know; I can only speak of land within the distance I have mentioned.

18. Are you a practical squatter?—I never resided outside the boundaries, if that constitutes a practical squatter.

19. There is some land at so great a distance that no matter how good it may be it cannot be sold on account of the expense?—It may be so.

20. Would you recommend that this should be put up for sale?—No.

21. (*By Mr. Lamb.*) Do you think four times the quantity of land that is now sold at 1*l.* an acre would be sold within the nineteen counties if the price were reduced to 5*s.* an acre?—I do; I think ten times the quantity would be sold.

22. Therefore the amount payable into the Colonial Treasury would be very much greater if the price were reduced?—I think so.

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23. (*By Mr. Cowper.*) When you speak of a sufficient price, do you mean a price below which you do not think it desirable that Government should dispose of land?—When I speak of a sufficient price, I have in view one object, which is, that the money derived from the sale of land is to be expended in bringing out immigrants, and that the price should be sufficiently low as to attract purchasers, but not so low that the lands would be taken too readily; and I think a sufficient price, having that object in view, would be about 5*s.*; for I do not believe that persons will buy large blocks of land, as they did formerly, at 5*s.* an acre for grazing purposes, but that they will only buy as they would require it, to complete their estates, and for other considerations. The sum of 5*s.* an acre I think would form a sufficient fund for bringing out labourers. In course of time the lands which are now considered of little value would be worth the money. I have, in my experience, known certain land to be considered dear at 5*s.* per acre, which is now in the hands of private individuals who would not sell it for 1*l.* per acre.

24. (*By Mr. Robinson.*) In other words, you would not dispose of land which is not worth 5*s.* an acre?—That is what I mean.

25. Do you consider that any stockholder can buy land purely for the purpose of grazing sheep at 5*s.* an acre, he being restricted to the actual quantity of land purchased?—I think I have answered that question. I stated before, that purely for grazing purposes the land is not worth it.

26. (*By Mr. Cowper.*) You were in the colony when the system of selling land was first introduced?—I was.

27. At that time the county of Argyle was much in the same position that the land beyond the boundaries is in now?—Exactly.

28. So that you were, with regard to other parts of the colony, except that you held your land by grant from the Crown, in a similar position to those who are now beyond the boundaries?—Yes; my grant ejected a squatter.

29. From the opportunity you have had of observing the operation of the system of selling land at 5*s.* an acre, are you inclined to recommend a return to that system?—I am not in favour of the principle of selling land by auction.

30. Would you allow any purchaser to select the land at the price of 5*s.* an acre?—I think, at the fixed price of 5*s.* an acre I would.

31. Under what system would you give him the opportunity of making the selection?—I think that the person already occupying the land ought to have the privilege of purchasing it; but, if he do not purchase, I think it would be an injustice to prevent any other person from purchasing it.

32. (*By Mr. Suttor.*) Do you confine your remarks to grazing land?—I think that for arable land the price I have named would be too low. In my reply to a circular letter from the Crown Land Grievances Committee, in 1844, I stated that 10*s.* an acre would be a fair price for arable land, and I am still of that opinion.

33. You recommend that 5*s.* an acre should be the price for the lowest description of land?—Yes, that should be the fixed price for grazing land.

34. Do you not consider that other land, which is not now worth 5*s.*, will, as population increases, become of that value?—Yes.

35. (*By Mr. Foster.*) You would allow a person to select any grazing land at 5*s.* an acre?—Yes.

36. And would allow the person occupying the opportunity of purchasing it before any other?—Yes.

37. How would you secure that the full value of the land should be realized to the public, as some might be worth 10*s.* an acre and some 5*s.*?—I have already stated that 5*s.* would be too low for arable land.

38. How would you determine what was arable land and what was not; there might be a great difference of opinion upon that?—I should think there could be no difficulty in determining. Lands on the banks of rivers are generally alluvial soils, and are fit for cultivation; there are also many parts of the colony in which the forest lands are fit for cultivation.

39. Would you recommend the same system, as regards the sale of arable land, as you have done with respect to grazing lands, only altering the price?—Only altering the price. I very much dislike the system of putting up land by auction; and I think that many men did not put up lands, under the old system, for fear of raising competition. There were many men who would not otherwise have dreamed of purchasing land; but when they saw the names of gentlemen resident in the neighbourhood of the land published, they thought the land must possess some extraordinary value, and bid against the party putting it up.

40. (*By Mr. Cowper.*) When you say "raising competition," you mean illegitimate competition?—Yes.

41. (*By Mr. Faithfull.*) What is the smallest quantity of land you would allow to be sold at 5*s.* an acre?—I think, for grazing purposes, it would be unwise to put up less than 640 acres.

42. How much for arable purposes?—I think you might come down to 20 acres.

43. Has it not been the case in Argyle, where the greater portion of the better class lands has been purchased, that by taking a small quantity of land—160 acres—with a water frontage, the whole of the back land has been thrown in for nothing?—I know of no such instances.

44. (*By Mr. Foster.*) Was not one of the main objects of persons formerly to buy water frontages and thereby to secure back runs?—I think not; I have heard it so asserted, but I think there was another object.

45. What was that object?—To obtain labour, and also to be possessed of so much land.

46. There used, I believe, to be a stipulation that a certain quantity of labour should be assigned in proportion to the land purchased?—Yes.

47. (*By Mr. Faithfull.*) Do you think there is any vacant good land in Argyle?—Very little.

48. Even for grazing purposes?—Even for grazing purposes.

49. Have you not known selections to be purchased without a drop of water upon them, merely for the sake of the run?—Yes.

50. (*By Mr. Allen.*) Upon your plan of having a fixed price of 5*s.* an acre, do you not think that the revenue would suffer materially in the way referred to by Mr. Faithfull; would not persons be induced to purchase a small piece of land, for the sake of securing the whole block of 640 acres? I do not see that it will injure the revenue if such land will never be worth 5*s.* an acre. I do not see why the front lands should not be sold.

51. But if this frontage were not sold persons might be induced, at some future time, to take the

whole 640 acres at 1*l.* an acre?—Persons *may* buy, but I do not think it likely that they would give that price. I think there is a desire in most persons to possess land; if a person is the owner of one acre of land, he will desire to make it five, and so on, as he could afford it, he would purchase the land which surrounded his property at a fair price.

52. Do you think one person should be in a position to do so at 5*s.* an acre, if another will give more for it?—I do not see any necessity for the Government to encourage speculation in this matter at all; the object is to obtain labour, and if we get sufficient amount from the sale of land at 5*s.* per acre, to supply our wants in that respect, it is all we require.

53. If you obtained 10*s.* an acre for the land, you might get twice the quantity of labour?—You might then perhaps get too much labour.

54. Then you need not sell the land?—It is not to be supposed that this demand for labour can go on for ever; in ten or twelve years I believe the demand for pastoral labour will be very much curtailed; we shall want labour no doubt for other purposes.

55. (*By Mr. Foster.*) Would not that cause a demand for labour also?—Yes, but not to the same extent.

56. (*By Mr. Icely.*) Do you not think that by allowing persons to occupy a small quantity of land at a fixed price, you might prevent persons from purchasing sections, and distribute a class of persons about the country who would be injurious to it?—I do not think so; generally speaking, it is the best class of men who save money and go upon land in this way. If a man has 20*l.* in his pocket, and wishes to buy land, I do not see why he should not have it in his power to buy land, as well as a man with 5,000*l.*

57. (*By Mr. Foster.*) Would not so many small farmers cause a great demand for labour, and those men who ought to be labourers themselves become employers of labour?—I do not understand the question. I cannot see why any man *ought* to be a labourer; if a man is in the position of a labourer, I should say he *ought* to improve that position if he could.

58. He ought to be a master?—He ought to *try* to be a master.

59. (*By Mr. Lamb.*) You have mentioned that the publication of the names of parties desiring lands to be put up, has occasioned hardship to them, by raising up illegitimate competition; do you think now that that practice is abolished, that any injustice is done by putting up land to competition?—I think the alteration of the practice to which you refer has done away with a great deal of the evil that existed formerly.

60. In a financial point of view, should not the land be put up to competition?—I must confess that I do not look upon it in a financial point of view. I think a given sum is required for the purposes of immigration, and I do not see why more money should be abstracted from the pockets of the people than is necessary for that purpose.

61. (*By Mr. Suttor.*) Do you not think this fixed price of land might lead to a great deal of jobbing; might not a man, with 2,000*l.* or 3,000*l.*, go about the country and pick up a section of land here, and a section there, and sell it again at a higher price?—It might be so, but even that would be an improvement upon the present system.

62. Would not this be abstracting the money from the pockets of the people?—It would be less objectionable for these parties to do so than for the Government; I think any system of jobbing, by which the land could be transferred from one hand to another, would be better than the present system.

63. (*By Mr. Foster.*) Would not that counteract your purpose of forming a revenue?—I must repeat, that I do not consider it should be the object of the Government to get all they possibly can out of the pockets of the people; unless that is borne in mind, my views cannot be understood. I do not say that Government are to be merchants in land, and to adopt schemes by which they may cram their chests with money. We want money for a certain object; if that object be attained it ought to satisfy the Government.

64. (*By Mr. Allen.*) Would it not be attended with this great evil, if the land were to be sold at 5*s.* an acre, that gentlemen would buy up the best land and sell it at a higher price, and that the Government would thus lose the money gained by the private individual?—I think that is only an assumption. We are not sure that these individuals would sell the land at a higher price.

65. Is not this plan open to favouritism?—I cannot see how.

66. May not a party obtain information of a good tract of land, make an application for it, and, having occupied it, purchase it at 5*s.* an acre, although another party may be willing to pay a higher price?—Yes.

67. (*By Mr. Suttor.*) Suppose half a dozen persons apply for the same land?—I do not know how you can prevent that.

68. (*By Mr. Cowper.*) With reference to the mode in which the arable land should be laid out from the pastoral, do you think that is an operation which might be safely left to the Surveyor-General's department?—I think so. If the Surveyor-General's department called grazing land arable land, no one, because the Surveyor-General had so marked it, would consider it imperative upon him to purchase it as such.

69. Could you suggest any better plan than leaving the details of that to the Surveyor-General?—I am not prepared to suggest any other.

70. With regard to arable land, what do you think would be its fair value as a minimum price; or rather, what would you consider a sufficient price?—In reference to a fixed price, I would say 10*s.*

71. You would throw it open to purchasers at 10*s.*?—Yes.

72. (*By Mr. Allen.*) You have recommended that occupants should have a prior right to purchase these lands?—Yes.

73. Merely because they are in occupation of the lands?—Yes.

74. Suppose I happen to know of a piece of land for which I am willing to give more than 5*s.* an acre, because a person is in occupation of it he can buy it over my head at 5*s.*?—He does not buy it over your head; you are merely prevented from buying it over his head.

75. Although I may be willing to pay 10*s.* an acre for it, you think he should have it for 5*s.*?—I think he should. I do not see that an established system should be upset, merely to meet the humour of an individual.

76. (*By Mr. Suttor.*) Do you think the Government should give all the advantage to the present occupier: suppose a man to be in occupation of 10,000 acres worth 10*s.*, should he be able to purchase

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that land at 5*s.*, and afterwards to sell it at 10*s.*?—I think the present occupier of land should have the privilege of purchasing that land.

77. Upon what ground?—He is in occupation of the land, and has been doing a certain service to the country, and no doubt at the same time some to himself.

78. Do you not think a serious evil might arise in this way, supposing a number of persons were anxious to obtain possession of a large tract of country—say 20,000 acres for grazing purposes—might not a person go before them, obtain permission to occupy the land, and then when the other persons wished to purchase it, obtain it himself at 5*s.* an acre, and sell it to them at a higher price?—It is an hypothetical case; but I think it very improbable that a man would buy 20,000 acres of grazing land merely for the sake of speculation.

79. (*By Mr. Lamb.*) Perhaps you are not aware that the same thing has occurred in South Australia, and that many blocks of 20,000 acres have been taken up in that way?—Not for grazing purposes.

80. (*By Mr. Foster.*) Under the old system, when land was sold, the party who had occupied it could easily remove to another station?—Yes.

81. If a man's station were taken from him now, and he were forced to move out, he might be ruined now, although formerly the inconvenience would not have been so very great, as there was much more land to be occupied?—I do not know to what extent the inconvenience might be felt. I know at that time it was inconvenient, but I never heard of any great suffering. Every one who took up a station knew that he was liable to be removed, but certainly not without some grumbling when the thing occurred.

82. Was not much more land open for selection then than now?—I do not know, for I have heard of splendid land to the northward that has just been discovered.

83. (*By the Chairman.*) Have you read the recent Orders in Council with reference to the waste lands of this colony?—I have.

84. What is your opinion of those Orders?—I consider them pernicious.

85. Explain?—In the first place the practical effect of these Orders will be to give the lands over to the persons who now hold them. The evil would be less great if the fee-simple of the land were given to the present holders, as then there would be some chance of the land getting into other hands; but now these lands cannot be transferred—cannot change hands—can never be improved; for the effect of these Orders is to say, that the land shall not be improved, as the parties occupying are only allowed to cultivate for their own sustenance; they must not barter or sell the produce of the lands, therefore they must be sheep-walks for the next 14 years certain, and if these Orders are maintained they must be for ever.

86. What is to prevent a stranger from buying a section of land at the end of eight years?—I mean to say that it is a perfect absurdity to suppose that a man will at the end of eight years purchase a section, for he must expend at least 3000*l.* to obtain right of the run.

87. Is it not possible for a person to buy one section—a farmer not wanting the run?—Not very likely at 1*l.* per acre.

88. Would there not be this objection to buying a section under the circumstances, that the party purchasing must fence it if the other party remained in possession of the surrounding land?—Yes.

89. (*By Mr. Windeyer.*) Would he have to fence it alone—could he not call upon the lessee of the adjoining land?—I do not know. There is an Act to regulate the dividing of fences; but if my recollection serves me correctly, it applies to the owners of lands adjoining, and these lessees, I presume, do not call themselves the *owners* of the land.

90. (*By Mr. Foster.*) It would be very easy to alter that Act?—I am not sure it would be so easy after these Land Orders come into operation.

91. (*By the Chairman.*) You have given the reasons why you think these regulations pernicious—do you see any advantages in them?—I see none to the Colony; they appear to me to be replete with evil—to be one great evil.

92. From your evidence I gather that you do not think these intermediate lands will be purchased at the end of each year?—I do not.

93. Do you think the squatters will exercise their right of pre-emption?—I do not.

94. Will you state why not?—Because they must feel so secure in the occupation of their runs by these present regulations; they must feel the improbability that any one will buy one-fourth of their run, which is necessary to deprive them of their leases.

95. You do not, practically, see much difference between the settled and unsettled districts?—I do not.

96. Do you think this is a system that can be worked out at present?—I do not see well how it can be worked.

97. What difficulties do you see in its working?—I do not know, in the first place, how the boundaries of these runs are to be determined; it appears to me that the expense of this would be considerable, and how they are to settle disputes, unless by some fixed mode of determining these boundaries, I cannot tell; for I imagine that these runs are not to have the same vague descriptions as are given to them in the licences, that is, taking marked points, such as hills and ranges, for boundaries; as they are leases, they must be definitely described. I think, also, that these regulations will prove inconvenient to the squatters themselves, if not evaded.

98. In what way?—By their not being allowed to sell or barter their wheat; because those who reside at a distance in the interior, if they lose their crops, may have to travel four or five hundred miles to obtain a supply.

99. The apprehension has been stated that parties will exercise their right of pre-emption with the view of getting water frontages?—That is very probable; there is another reason why they should do so, namely, for the purpose of cultivation, and that they might be able to sell wheat, &c.

100. You see great practical difficulties in carrying this system out?—Yes.

101. Let us suppose this system carried out, and these leases granted, what effect would that have upon the price of land; what side would these lessees take with reference to the reduction of the price of land? Supposing yourself to be the lessee of some of these waste lands under these regulations, and supposing you were looking to what would be the most beneficial to you as such lessee, what part would you take?—I would allow matters to remain as they are.

102. Would you give any assistance to those who sought to have a reduction in the price of land?

—Persons under such circumstances, in all probability, would not, because their security is in the high price of land; it is the high price that has handed these lands over to them. If the price were reduced, then other persons would come into competition with them, and if the occupants did not purchase the land, others would. Immigrants and capitalists would come into the country, who would sit down on the land, and make something more than sheepwalks of the country. The lands of the squatter are, in many instances, far richer than any in the nineteen counties.

103. Then if you were a lessee, under these circumstances, you would not have the price of land reduced in the unsettled districts; what would you have to say as to land in the settled districts?—I should have to show something like consistency.

104. What influence do you consider these regulations will have upon immigration?—I think they will check it, or rather destroy it altogether. In the first place, we cannot expect to obtain anything like a land revenue, and persons can have no object in coming here if they cannot become landed proprietors. The lands are, by these orders, in a manner given over to the present squatters; the man who comes out here as a labourer, must remain a labourer—there is no prospect for him, no hope of advance; and not only the labourer, but every other person not possessed of land, can have no prospect of obtaining it; the father of a family must bring up his sons to trade or traffic of some kind, for he cannot hope to become a landed proprietor. It will be fourteen years, at least, before there can be any change.

105. Do you think there will be any change at the end of fourteen years?—There is a right of renewal at the end of fourteen years.

106. Is there any other observation you would offer on these regulations?—I think these regulations, as far as lands within the boundaries are affected by them, are most cruel. There are a great number of persons on the land in the county in which I reside, who pay 5*l.* for a section, a portion of which they cultivate, and I dare say one-half the wheat consumed in Argyle is grown by those men. If these regulations were brought into operation, such persons must be ruined. If they had committed some great crime, for which it was desired to punish them, you could not do so more effectually than by these regulations.

107. To which regulations do you refer?—Chapter IV. These men who are now upon these lands, and who are very useful to the settlers around, to whom they act as carriers, would have to go off the lands if they were not allowed to grow grain.

108. I suppose they would have to become labourers—would not that be a great advantage?—I think it is very likely they would go into the mountains and become cattle stealers. Many of these men are in pretty comfortable circumstances, and they would scarcely like to become labourers; besides, many could not get employment, on account of their large families.

109. (*By Mr. Foster.*) Do you think it fair to the purchasers of land, in the neighbourhood, that these men should be allowed to cultivate the soil, and to enter into competition with them?—I think so; they pay a rental for their land.

110. Do they pay an equivalent rental?—They may not, but I do not look upon the question in that light.

111. Do you not think, if this system were continued, that it would discourage persons from purchasing land?—I do not.

112. Not if these farmers are in a position to undersell?—I do not think the Government have a right to make regulations to determine the price of a commodity. If one wanted land, and had the means of purchasing, such purchases would be effected without any reference to the cultivators on the Government lands.

113. If the price of land were reduced in the squatting and intermediate districts, it would take away a great deal of your objection to the proposed orders?—Some of the evils of these orders would be removed.

114. There is a power reserved to the Government to proclaim any number of counties they wish to bring into the intermediate districts; if that power were extended to would not that take away a great deal of your objection to the proposed orders?—It would do away with a great deal of the evil, but would not remove my objections to the land orders.

115. You said if you were a lessee, under the proposed orders, you would object to the reduction of the price of land, as that would be the protection of your tenure; would it not be the same if you were a squatter?—It might.

116. (*By Mr. Faithfull.*) Are you of opinion that squatters will improve their runs?—I am of opinion that they will think it tantamount to forfeiting it, to improve their land.

117. (*By Mr. Foster.*) In fact a man cannot improve his land, without purchasing it, under he proposed orders?—It is not likely that he will.

118. (*By Mr. Faithfull.*) Do you think land becomes more valuable after it has been grazed over?—My opinion is that it becomes less valuable.

119. (*By the Chairman.*) Will you state the cause of that?—The droughts, fires, continued cropping of sheep, and trampling down.

120. (*By Mr. Icely.*) And also because of the quantity of scrub that grows up?—Yes, that is another cause. I know land, which was formerly an open forest country, which is now covered with mimosa scrub and brush.

Saturday, August 14, 1847.

Present:—

Robert Lowe, Esq., in the Chair.

Charles Cowper, Esq.,	Thomas Icely, Esq.,
John F. L. Foster, Esq.,	William Henry Suttor, Esq.
William Pitt Faithfull, Esq.,	

Arthur Hodgson, Esq., called in and examined.

1. (*By Mr. Foster.*) You reside in the district of Moreton Bay?—Yes, at Darling Downs.
2. You are a squatter, I believe?—Yes.
3. Are you a landowner?—No.

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4. How long have you been in the Colony?—Eight years.

5. You were in the Colony, then, when land was sold at 5*s.* an acre?—When I left England land was selling here at 5*s.* an acre, but when I arrived it was selling at 12*s.*

6. What is your opinion of the effect of raising the price of land from 5*s.* to 12*s.*, and from 12*s.* to 1*l.* an acre?—I think it has stopped the sale of it altogether, except in the most desirable localities.

7. Do you think much land would have been sold if the price had not been raised from 12*s.* to 1*l.*?—I do.

8. For what purposes?—Chiefly for cultivation purposes.

9. Do you think that much land would have been bought for pastoral purposes at that price?—I do not.

10. Do you not think water frontages would have been bought for the purpose of securing back runs?—No, I do not. With water frontages, I think a good deal might be purchased at 5*s.* an acre.

11. Do you think if the price of land were reduced to 5*s.* a large quantity of land would be sold both for agricultural purposes, and in order to secure water frontages?—I do not think large quantities would be sold beyond the boundaries.

12. Are you acquainted with the country within the boundaries?—I am tolerably well acquainted with it.

13. (*By Mr. Cowper.*) What do you call "large quantities?" Supposing we wanted to raise an amount yearly for Immigration purposes, and did not wish to force too great a quantity of land into the market, do you think the price of 5*s.* an acre would enable us to accomplish this object?—To a certain extent.

14. You cannot form an estimate as to what extent?—It would be very difficult to form an estimate.

15. (*By Mr. Faithfull.*) What is your opinion of having two prices, one for pastoral and one for arable land?—I do not think that distinction could be made.

16. Do you think there should be one minimum price?—I do.

17. What do you think that minimum price ought to be?—I think we could scarcely afford to pay 1*s.* an acre for it for grazing purposes.

18. (*By Mr. Cowper.*) That is if you purchased the whole of your run?—Yes.

19. You have not yet replied to my question as to what you consider a large quantity?—It is a very difficult question to answer without much consideration, and difficult even then to arrive at a satisfactory conclusion; but I am of opinion, that every *bonâ fide* squatter would be inclined to purchase at least 1280 acres of land at 5*s.* an acre, during a period of eight years, under the Land Orders recently promulgated.

20. (*By Mr. Faithfull.*) Do you find on your runs that the land is intermixed; that some is fit for grazing purposes, and other for agricultural?—Yes, undoubtedly.

21. Do you not think that by taking a section, as was done formerly, you might purchase land worth more than 1*s.* an acre, you having the advantage of selecting what land you wanted?—I am of opinion that for some time to come land could not be cultivated to any extent, with any degree of benefit, in the squatting districts.

22. (*By Mr. Foster.*) Purchased at any price?—Purchased at any price.

23. (*By Mr. Faithfull.*) My question is, whether you might not select portions of land upon a run suited for agricultural purposes, which would be worth more than 1*s.* an acre?—Undoubtedly spots might be selected worth more than 1*s.* an acre.

24. (*By Mr. Foster.*) Worth! for what purpose, if agriculture does not pay?—For water frontage, in order to secure back runs for pastoral purposes.

25. (*By Mr. Faithfull.*) What would that be worth?—I am not prepared to answer the question.

26. (*By Mr. Suttor.*) Suppose the whole lands of the Colony were now open for sale, do you not think a large proportion of the present squatting stations would be bought if they were put up at 5*s.* an acre, supposing the squatters had not fixity of tenure?—Yes, I think large blocks of land might be bought in squatting districts for 5*s.* an acre.

27. (*By Mr. Foster.*) Do you think they would be bought by the present squatters, or by others who wished to settle?—That would depend upon the terms on which they were put up. I mean to say that if there were a fixed price of 5*s.* an acre, a squatter could go to the Survey Department, and say, I require such and such land at 5*s.* an acre; but if it were put up to public competition, the Sydney land-shark, or speculator, would take advantage of the knowledge which the squatter, by dear-bought experience, might have of his own run, and would bid against him, with a view afterwards of either selling the land to him at a profit, or securing to himself ultimately the possession of the squatter's run.

28. You disapprove, then, of the system of selling by auction?—I do. I consider it would tend almost immediately to annihilate the squatting interest.

29. (*By Mr. Suttor.*) Looking to the interests of the squatter, you prefer the system of private sale?—Yes.

30. (*By Mr. Foster.*) What would you consider a proper price, as a fixed price, at which any one might select land beyond the boundaries, say in the Darling Downs district, supposing these Orders in Council were not in existence?—I think a good deal of land would be selected at 5*s.* in the Darling Downs district, owing to the many advantages which we possess, and which advantages have been widely circulated in this city and elsewhere.

31. Would much be sold at 10*s.*?—I think not.

32. (*By the Chairman.*) Have you read the Land Orders?—I have.

33. Will you state your opinion of them?—I think the squatters have no reason to complain of them. I think they are very fair.

34. Fair to all parties?—Yes, I think they are fair to all parties; they are very fair to the squatters.

35. And to the rest of the Colonists?—Yes.

36. You approve of these Orders; will you state the grounds of your approbation?—As a squatter, I think the security of tenure which is given to us will tend to improve our social and moral condition considerably.

37. That is to say, it will improve the condition of the squatters?—Yes.

38. Do you see any other advantage that the squatters will derive from them—any material, pecuniary advantages?—I think they give a value to our stations which they had not before.

39. You think they will be an advantage to the squatters, by giving an additional value to their stations?—Yes.

40. What in your opinion would be the advantage to the remainder of the Colony?—I consider that the main export of this Colony is wool, and that if the squatters can grow this staple commodity of the country with any advantage to themselves, the Colony is benefited at large.

41. Do you see any other advantage to the body of the Colonists?—I am of opinion that a considerable quantity of land will be sold at the rate of 1*l.* per acre.

42. Beyond the boundaries?—Yes.

43. To whom?—To the squatters.

44. But what will be their inducement to purchase?—I think it will be twofold; they will secure to themselves homesteads, and raise an Immigration Fund.

45. Do you think they will purchase merely with a view to an Immigration Fund?—I say it will be twofold; *that* is only one consideration.

46. Then you think they will only purchase homesteads?—I do not think they will purchase more.

47. You think they will purchase homesteads?—I do.

48. Why do you think they will not purchase more?—Because they could not afford to pay 1*l.* an acre.

49. Do you think there would be any inducement even if they could afford to do so?—I do not.

50. Do you consider that there is any appreciable difference between these 14 years' leases which are renewable at the end of the term, and the fee-simple—do you not think when a man has got a lease for 14 years he will consider it equal to the fee-simple?—I do not.

51. In what respect is the tenure inferior to the fee-simple—what probability is there that a man will ever be turned out of his station when he has once got a lease?—As I read the Land Orders, at the end of 14 years any body else can take our land from us, if we do not give the price for it. Our leases, if we get them, will be subject to competition at the end of 14 years, so that I cannot consider that equal to the fee-simple of the runs, more especially as it is in the power of the Governor for the time being to include our leases either in the intermediate or settled districts.

52. Will you be so kind as to turn your attention to the 16th section of the second chapter: "If no part of the run be sold, the previous lessee shall be entitled to a renewal of the lease of the whole; or if any part of the run not amounting in all to one equal fourth thereof be sold, such lessee shall be entitled to a renewal of the lease for the remaining parts of the land comprised in his run, subject to the reservation of an increased rent." The increased rent that is to be assessed is described in the 18th section. With reference to these sections, do you still consider that there will be any chance of a person being turned out at the end of 14 or 28 years?—No squatter would, under these regulations, stultify himself so far as to buy one-fourth of his run.

53. Are there any squatters in your district who have runs that are not capable of carrying 4000 sheep?—There are not.

54. The stations run very large in that district?—There are small stations also.

55. It is one of the most recent squatting districts?—Yes.

56. What is the bearing of these Orders on the question of immigration—do you think there will be a fund for immigration purposes under these regulations?—I have previously stated that I think the squatter will purchase land, at least 320 acres in eight years, for the twofold purpose of securing a homestead and of raising an Immigration Fund. Without immigration a squatter had better give up his run altogether.

57. You think they will tax themselves for the purpose of immigration by buying land at the present minimum price of £1 per acre?—Yes, limiting the quantity of land to what I have stated. I am speaking entirely as a *bonâ fide* squatter, not as a person possessing a homestead within the boundaries.

58. Many squatters have homesteads?—Yes.

59. I will put the case of a gentleman residing at Sydney and having a station up the country, is he likely to purchase a homestead for the purpose of forming an Immigration Fund?—I think not, merely for the purpose of raising an Immigration Fund.

60. Do you think gentlemen who are unmarried, and living on their stations, will buy homesteads?—I think so.

61. (*By Mr. Foster.*) You have said, you consider that the condition of the squatter, in a moral and social point of view, would be improved by fixity of tenure?—Yes.

62. And that these leases will enable him to carry on the growth of wool at greater pecuniary profit to himself?—Yes. I think it would enable him to erect improvements which, in the present state of things, he would not run the risk of doing, such for instance as wool sheds and sweating sheds; in fact, various expensive improvements to promote the growth and improve the quality of the fleece.

63. Thereby the value of the principal export of the colony would be increased?—Not only would the quantity be increased, but the quality would be improved.

64. In that way you think the remainder of the community would be benefited?—I do; looking at this country as one which must be a wool-growing country for many years to come.

65. You think agriculture cannot be pursued under any circumstances beyond the boundaries, no matter what may be the price of land?—Under the present circumstances of the colony, as a matter of speculation, I think not.

66. (*By the Chairman.*) Are you speaking of your own district or of Port Phillip?—I am speaking chiefly with reference to the districts of New England, Darling Downs, and Moreton Bay, and I wish it to be understood that during this examination my answers are for the most part confined to these districts.

67. (*By Mr. Foster.*) You say squatters would buy homesteads at 1*l.* an acre—do you think they would buy much more if the price were reduced to 5*s.*?—I do.

68. For what purpose if agricultural pursuits will not pay?—I think they would purchase with a view to raising an Immigration Fund, and securing water frontage for pastoral purposes.

69. Do you think a larger amount would be paid into the Treasury if the price were reduced to 5*s.*, than if it were to remain at 1*l.*; would four times the amount of land be sold?—I think a much larger amount would be paid into the Treasury; at least four times the amount of land would be sold at 5*s.* per acre.

70. (*By Mr. Suttor.*) You say the squatters have no reason to complain of these regulations. I believe there are about 2000 squatters, and the whole population of the colony is about 200,000; if these

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2000 have no reason to complain, do you think the other 198,000 have no reason?—I think, if my ideas on the subject are correct, that they have no reason to complain if we buy land at 1*l.* an acre, and send an increased and improved quantity of wool into the market.

71. Do you think the natives of the colony, the young men who are now growing up, have no reason to complain at seeing the whole of the land taken away from them?—It is a most difficult question to answer, I would therefore decline answering it.

72. (*By Mr. Foster.*) Do you think the squatters have got the whole of the lands of the colony?—I do not.

73. (*By Mr. Suttor.*) Who has got them?—There is a great deal of land unoccupied.

74. Between the squatters' stations?—Yes, beyond the boundaries.

75. Do you think if the minimum price of land were reduced to 5*s.* an acre, and the whole of the lands of the colony were thrown open to sale, that squatters would be in danger of losing many stations?—I do.

76. Why do you think they would, bearing in mind that they are not worth 5*s.* an acre for pastoral purposes, and that agriculture will not pay?—I have answered that before. I say that the squatter is placed in a false position by the system of sales by auction, as there are numerous land-sharks, who take advantage of the dearly-bought experience of those who have gone beyond the boundaries, and bid against them at auction.

77. These speculators having been led into a false position, having bought the land for more than it was worth, would they not be glad to sell it at a lower price?—I do not think there are such fools to be found in Sydney. I wish to explain that the false position to which I alluded in my previous answer would be produced by the system of sale by auction, and not by buying land for more than it was worth, when the speculator was at the same time purchasing the experience of the unfortunate squatter.

78. What could they do with it?—Keep it for the same purposes.

79. Then it would pay people in Sydney to give 5*s.* an acre for land, and to turn squatters, but it would not pay the present occupants to buy the land?—I have previously stated that there are some blocks which a squatter could and would pay 5*s.* an acre for.

80. (*By Mr. Foster.*) If a speculator in Sydney were to purchase 2000 acres of the very best land of a run, would not a squatter be obliged to pay any price the land shark might demand for it?—I consider that his run would be useless, these 2000 acres having been taken away.

81. And in order to make his run available, he must pay any price the speculator choose to put upon it?—Yes, or lose his run.

82. (*By Mr. Suttor.*) Supposing a similar district to the Darling Downs were discovered, would there be any difficulty in getting parties to occupy it?—Not the slightest.

83. Do you think, in the event of a district of that kind being thrown open, there would be a start for it; would there not be great competition?—I think so.

84. What claims do you think the parties who arrived there first would have to a run over and above those coming immediately after; would they at once be entitled to leases for 14 years?—That is a very difficult question; but, I believe, the principle of pre-occupancy has always been recognised in this country.

85. Do you think the right of occupancy should extend beyond the time when the land should be required to be sold—do you think the old system of allowing squatters to occupy land, free of any charge, till the land was wanted for sale, preferable to this new system?—I do not.

86. Why?—Because I think the insecurity of tenure was the chief cause of complaint on the part of the squatters, and the principal hindrance to their prosperity.

87. Do you think there would be any difficulty in getting people to occupy the land upon the old terms, with the understanding that, when required, they should be all thrown open to sale, and the occupants would then be turned off?—I think it would be most unfair. For instance, I discover Fitz-Roy Downs; I come back and try to get a lease of my run, when I find that another, who has not been near the spot, has taken advantage of my experience, and the trouble I have taken in finding this country. Under such a state of things there would be no inducement for persons to go into these wilds.

88. Is there a single district in New South Wales that has been discovered by squatters?—You are of opinion that there has not, I believe; but I think the district of Darling Downs has.

89. Are you not aware that in 1824 the whole of the Darling Downs was discovered and travelled over by the late Mr. Cunningham?—I am aware that Mr. Cunningham, in 1828, discovered a very small portion of the district now known as Darling Downs.

90. And that the whole was laid down in the maps of the country?—There was no road when Mr. Patrick Leslie went into that part of the country.

91. He travelled over the tracks of Mr. Cunningham, I believe?—I can assure the Committee that it was not so; and that Mr. Leslie did not even come in contact with any of Mr. Cunningham's marked trees, unless on the summit of "Cunningham's Gap."

92. (*By Mr. Faithfull.*) You say that an Immigration fund might be raised from the sale of lands to squatters; what sum do you think might be raised?—I think a *bonâ fide* squatter would buy at least 320 acres of land at the present minimum price.

93. How often would he buy that?—I think he might buy 320 acres in eight years.

94. You think 320*l.* would be the sum a squatter would give for his station in eight years?—Yes.

95. You say that agricultural pursuits cannot be carried on with advantage to the colony; do you not think, if the price of land were reduced, that many small farmers, with capitals of from 500*l.* to 2000*l.*, might be induced to come out here for the purpose of growing grain?—I think, under the existing circumstances of the colony, agriculture would not pay in the squatting districts.

96. If there were an extensive immigration to this colony, would it not pay?—I think it might.

97. (*By Mr. Cowper.*) Then, in fact, agriculture does not pay in the pastoral districts, because there is not population to consume the produce?—Not only that, but the enormous cost of growing the grain, of threshing, grinding, and converting the grain into flour, renders it at the present time an unprofitable employment.

98. It does not pay squatters; but would it pay farmers better than squatters?—I think so, because, generally speaking, the squatters are not practically acquainted with the cultivation of the soil.

99. Then is it not injurious that small agriculturists should be prevented from cultivating the soil?

—I do not imagine from these Orders that they are prevented. I form my opinion from the 9th section; and I think it more than probable that we shall see small farmers located on the squatters' stations, leasing from the squatters sections or half sections of land, which may have been purchased by them for cultivation purposes, and thus enabling the squatter to give his undivided attention to pastoral pursuits, and to the improvement of his flocks and herds.

100. You think that the 9th section will enable the Governor to establish townships upon your runs, even within the terms of your lease?—I do.

101. What is your opinion of the words, that nothing in the Regulations shall prevent the Governor "from making grants or sales of any lands within the limits of the run comprised in such lease for public purposes," and so on, "or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the colony." Supposing the Governor were of opinion that it was desirable to set apart a portion of your run as a small agricultural farm for the purpose of "facilitating the improvement and settlement of the colony," do you think it would be open to his Excellency to do so?—I do.

102. Without giving you any compensation whatever?—Yes; and I farther think, that in many instances, if the Governor were to exercise that discretion, it would be an advantage to the district, and the colony at large.

103. You think, then, that it might be an advantage to the squatter, that the Governor should take from him his run, or such portion of his run as might be desirable to throw open for sale to small agriculturists; provided, in the opinion of the Governor, that would facilitate "the improvement and settlement of the colony?"—I am of opinion that the Governor might form townships in the squatting districts, which could be selected without interfering with the pastoral pursuits of the squatter.

104. How do you mean without interfering with the pastoral pursuits of the squatter?—I put so much confidence in the Government, that I do not believe they would select that part of the run which would interfere with my pastoral pursuits. I think many parts might be selected for the purposes mentioned without such interference.

105. What do you consider to be the policy of the Government in establishing these Land Orders?—The policy of the Government I consider to be to give security to a deserving class of persons, who have not had any secure tenure of their lands before.

106. But not to retard the advancement of the colony generally?—I do not think these orders would have such an effect.

107. Supposing that to be the policy of the Government, and reading the 9th clause, do you see anything to restrict the Government to laying out towns and villages only; does not the latter portion of the clause enable the Governor to locate in the interior, an agricultural population, so as gradually to make land more valuable?—I think this clause relates to townships being formed in the colony.

108. There is a still further object?—I do not imagine that it is intended to go beyond that. The whole tenor of Earl Grey's Despatch is so conciliatory, I cannot suppose for one moment that it is intended as a fraud, for the purpose of dragging the squatters into a belief, that a boon has been conferred upon them, when indeed no boon was intended. The extraordinary powers vested in the Governor of this colony by the 9th clause of these Land Orders, would, if carried out to their full extent, as some of your Committee seem to anticipate, place the squatters in a worse position than they were under the old system.

109. Do you think the squatters would have any reason to complain, if the Government were to act upon the whole of these Land Orders as one complete arrangement. You have said that the lease, the right of pre-emption, and other privileges conferred upon the squatter, gave them no right to complain, and you have declined to answer the question, whether the Colonists generally have any reason to complain; I therefore ask you, with reference to the 9th section, which seems to show a regard to the progress of the Colony generally, whether you consider that the squatters ought to feel aggrieved, if the Government were to act upon the whole of these orders together?—I apprehend that the 9th clause alludes to any townships that may be formed. There are spots in the squatting districts where it might be advantageous to the squatters, and to the whole Colony, that townships should be formed which would not interfere with the choicest parts of the runs of the squatters. Such places, for instance, as Armidale, in New England; Warwick, on Canning Downs; Drayton, on Darling Downs; probably, indeed, where all Courts of Petty Sessions have been established. And for this reason, that the opinions of the resident magistrates were taken previous to the appointment of these Courts, and these opinions were, doubtless, grounded upon the sites being most central, the population most numerous, and the locality least annoying to the squatter on whose run these Courts have been established.

110. What I wish to know is, why the Government should be limited to those spots?—I put too much confidence in the Government to suppose that they would annoy the squatter by coming into the midst of his sheep walks.

111. My question was rather whether Government might not sell these lands for agricultural purposes?—I cannot think that the Government would sell land for agricultural purposes, without consulting the interest of the squatter, where these lands might be situated; and I think that the high "minimum price of land" is an additional security.

112. You have said that you think a considerable number of squatters would purchase 320 acres of land at 1*l.* an acre, what do you consider would be their object in purchasing that quantity of land?—I have before stated the twofold object of securing a homestead, probably for cultivation purposes, and of paving for a supply of immigrants.

113. Do you not think they would buy more than 320 acres?—I have said I think they would buy 320 acres in eight years.

114. And their purchases would be limited to that?—I think few squatters would buy more.

115. Supposing your run contained 50,000 acres of land, unless you bought 125,000 acres in 14 years you would be entitled to claim a renewal of your lease for another 14 years, so that virtually these orders give you a lease of your land for at least 28 years, and probably for a renewal of it indefinitely?—The land is subject to competition at the end of 14 years, I believe.

116. Not unless one-fourth is sold, or the Governor in the meantime include the land in the intermediate or settled districts?—I think it is more than probable that we shall be included in either the settled or intermediate lands before the expiration of our leases.

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117. What would you think of reducing the price of land to 5*s.* an acre, and of allowing the occupant or squatter the right of pre-emption at that price within a limited time, and if he did not purchase that it should be put up for competition?—I would answer that question by saying that it would entirely depend upon the quantity of land which it was proposed he should purchase.

118. Do you not think if the price of land were reduced to 5*s.* an acre, and thereby an Immigration Fund were raised, and the prosperity of the colony were in some measure restored, that squatters would be desirous to invest a considerable portion of their yearly profits in the purchase of land so as to secure their runs?—I think the squatters would be inclined to purchase at 5*s.* an acre, but not to any extent.

119. You do not think that for the sake of acquiring the land, of making it their own, that they would yearly spend a sum of money in purchasing it?—Not a considerable sum.

120. What would they do with their profits?—I do not lay so much stress upon the profits of the squatters as you appear to do.

121. If you get immigration your profits will be increased?—Yes; and therefore I think squatters might purchase land at 1*l.* an acre for the purpose of raising an Immigration Fund, and I may add, more than four times that amount, should the minimum price of land be reduced to 5*s.*

122. But the amount which would be derived from the source you speak of would be very small?—I think it would increase every year in Darling Downs.

123. Do you think there is a possibility of land being purchased at 1*l.* per acre beyond Darling Downs?—I do.

124. For the sake of securing a renewal of the lease every 14 years?—No: for the purposes of a homestead and immigration.

125. What would be the use of 320 acres by itself without a run?—No one would be so insane as to purchase 320 acres of land at such a price, and at such a distance, without taking into consideration that he will probably get a lease of a tract of country for pastoral purposes for 14 years.

126. (*By Mr. Icely.*) Do you think that, but for the regulation contained in the 16th section, a large quantity of this land would be bought at 5*s.* an acre by the squatter for the purpose of settling a small tenantry upon his property?—There is an objectionable clause in these orders which prevents the occupant of unsettled lands from cultivating grain either for sale or barter.

127. Do you think the condition to which I have alluded, that if one-fourth part of a run be purchased, the occupant would lose his right to claim a renewal of his lease, would operate as a preventive to the purchase of land?—I think so.

128. But for that condition, would not a very large quantity of land be sold at 5*s.* an acre, for the purpose of settling small farmers on the runs?—In some cases it might, but in very few.

129. (*By the Chairman.*) You spoke of the fixity of tenure which these regulations give, as one very great advantage to the squatter; with reference to the 9th section, to which your attention has been directed, do you conceive that you have any fixity of tenure against the Governor?—I do.

130. May not the Governor under that section turn out any squatter without compensation?—I do not view the matter in that light.

131. Suppose the Government were to say, we consider it necessrry for the advancement of the colony to turn you out, and to devote the land to some other more beneficial purpose, would you have any remedy?—Perhaps we should have no positive remedy, but I should consider that we were treated unfairly, and that we had been duped.

132. Should it depend upon a party's sense of fairness whether he should be possessed of property or not?—I do not view the 9th section in that light. I cannot suppose that it is the intention of Government to ruin the best interests of this country.

133. In what light do you view it?—I imagine that this 9th section has reference to townships.

134. There is nothing said about townships in the section?—It says "places for the recreation or amusement of the inhabitants of any town or village;" and I infer if there were not towns or villages there would be no places provided "for the recreation or amusement of the inhabitants."

135. You have spoken of land-sharks: will you state to the Committee what you mean by a land-shark?—I mean a speculator or capitalist; a land-jobber who, when he heard, for instance, that the Moreton Bay steamer had arrived with a squatter on board, and that certain land in that district was to be put up by that squatter, would take advantage of his experience and bid against him, for the purpose of either making a profit out of him by selling it afterwards, or by compelling him to throw up his lease; the land-shark having by purchase possessed himself of the most valuable portion of the squatter's run, probably his wool-shed, or his house, or his permanent water holes.

136. (*By Mr. Foster.*) You said you would allow a squatter to select land at a fixed price of 5*s.* an acre?—Yes.

137. Would you allow any of the public to select land at that price? or what protection would you give the squatter if you did not expose the land to public competition?—I would not allow any one to select the land of a squatter holding a lease of his run.

138. I thought you said at the commencement of your evidence you should like to see a fixed price of 5*s.* an acre, at which any person could buy a portion of a run without competition?—Yes, the person holding the run.

Saturday, August 14, 1847.

S. K. Salting, Esq.

August 14, 1847.

Severin Kanute Salting, Esq., called in and examined:—

1. You are a merchant in this city?—Yes.

2. And are also a squatter?—Yes.

3. How long have you been in the colony?—Thirteen years.

4. Will you state your opinion of the existing minimum price of land of 1*l.* an acre?—For squatting purposes, I conceive this price to be much too high.

5. For agricultural purposes?—I am but little acquainted with agricultural pursuits; but where agricultural pursuits can be followed, and where there is a market at hand for the produce, I should think 1*l.* an acre cheap.

6. Do you consider that the measure of raising the minimum price to 12*s.* and then to 1*l.* has been beneficial or not?—I think it has been detrimental to the colony.

7. Will you state what detriment it has occasioned?—I think it has prevented the Crown lands from being sold.—I also think that it has been the means of inspiring the holders of land, who had purchased before the price was raised, with high notions of the value of their property: this, however, is perhaps only a secondary evil.

8. It had that effect however?—I certainly think it had.

9. Do you think it has that effect still?—I think people have come much nearer the truth by this time.

10. Do you think it has tended to raise the value of land that has been sold before?—It may in the imagination of some individuals; but not intrinsically.

11. Has it raised the price that could be obtained for it?—It may in some solitary instances have aided individuals in disposing of their land; but I should say it has certainly not done so generally.

12. Do you think it has depressed the price?—I think it has depressed the value of land rather than otherwise.

13. How would that be?—I have stated, that I thought the increased minimum price prevented the lands from being sold; the cessation of land sales caused a cessation of immigration, and consequently a scarcity and dearness of labour. The more a settler has to pay for labour, the less he can naturally afford to pay for land. Hence I conclude that the increased minimum price to 1*l.* per acre has diminished the value of landed property throughout the colony.

14. You think it has deterred capital from coming here?—I think it has had that effect. I also think that the raising of the upset price of land from 5*s.* to 12*s.* and then to 20*s.* an acre has been the first and the principal cause of the land regulations, which have lately come out from England. While the upset price was 5*s.* the squatter looked upon himself as occupying the land of the Crown by sufferance; he calculated that at some future day his station would be sold, and the prudent portion of that class prepared themselves to secure their runs when that time should arrive. But when the minimum price of land was raised to 12*s.* and then to 20*s.* an acre, the squatters knew that at this rate their stations would not be sold, and they gradually became more and more accustomed to look upon them as their own property. From that period may be dated the clamour which has arisen for the right of pre-emption, and for fixity of tenure.

15. What system would you recommend with regard to the sale or disposition of Crown lands?—By Crown lands I suppose you mean those lands now occupied by squatters?

16. Yes. Would you approve of a system of sale by auction?—I think this the only equitable mode of disposing of them.

17. At what price would you sell them by auction—such lands as are to be sold?—If no previous minimum price had prevailed in the Colony formerly, or if the present price were not £1 an acre, and if the Government had not firmly expressed a determination not to reduce the present minimum price, I would make 2*s.* 6*d.* the minimum price at auction. But under existing circumstances, I think it very doubtful *whether* Government would reduce the price below £1 an acre, and it seems still more unlikely, that they would deviate so far from their previous intentions as to make the minimum price lower than it has ever been before. I therefore think, it would be better to propose 5*s.* an acre, as there is more ground for hoping that such a proposal *would* be listened to, than a still lower price, which, from being less than any previous minimum price, would demand a much greater compromise on the part of Government.

18. Have you read the Land Orders that have recently been promulgated?—I have.

19. Will you state your opinion of them to the Committee?—I think they are very favourable to the squatters.

20. What advantage do you think they confer upon the squatters?—They give them the tenure of the land to all intents and purposes for their life time, and probably for a much longer period.

21. Do you see any other advantage?—The advantages I have already named, seem very great in themselves.

22. You think that is so comprehensive as to include all others?—The only further advantage that could be conferred on the squatters would have been to have given them the fee-simple.

23. Is there any practical difference between these leases and the fee-simple?—As they have not the legal title, they are barred from alienating the lands.

24. They cannot mortgage or assign this property?—I apprehend not.

25. Do you not think that land leased for 14 years, with this power of renewal, is alienated from the colony?—Undoubtedly it is, while the lease continues.

26. But not in so beneficial a manner to the squatter, as if it had been granted in fee-simple?—Certainly not.

27. Then the colony loses as much as if it were granted in fee-simple?—The loss to the colony appears to me as great.

28. The land is as effectually gone from the colony as if it were granted in fee-simple, but the squatter does not gain the same advantage? The squatter does not gain the same advantage as he would by a fee simple.

29. Then there is a certain waste, there is a something taken from the Colony that does not go to the squatter? While the squatter occupies the land under the lease, the Crown cannot sell; and I do not see any limit to the period for which the squatter is to hold it. Consequently, if the Government were to grant the fee simple to the squatters, a great boon would be conferred upon the latter; and I do not see that any other class would be damnified by such a course.

30. You have spoken of the effect of these regulations with respect to the squatters; with respect to the non-squatting portion of the community, what do you think will be the effect? I think they are prejudicial to the general interests of the Colony.

31. Will you state why? In the first place, I cannot understand the policy of preventing the waste lands in a new Colony from being sold. It seems to me almost a design of arresting all further progress of the Colony in the most effectual manner. To convert the waste lands of the Crown into private property, is the ordinary and almost the only mode of civilizing a country, and of causing a development of its resources. It is true, the squatter, who invariably is engaged in grazing pursuits, must necessarily have a large tract of country to graze over, and in most parts the lands of the Colony are only fitted for grazing purposes. For this purpose alone, the squatter cannot afford to purchase all the land he occupies, at anything like a price at which the Government would feel warranted in disposing of it. These considerations have no doubt operated in producing the new regulations; but the advantages, which the leases will afford under the new regulations, appear to me so few and so slender, as to be far

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outweighed by the disadvantages of alienating the lands, destroying the land fund, and stopping immigration. If the waste lands were open for sale at a low minimum price, every squatter would strive to buy in the first instance, what was absolutely requisite to secure the tenure of his run more secure, and partly because investment in land is naturally a favourite one with a settler who has spare funds. In this way the squatter would acquire a title which would raise him from his present position to that of a landed proprietor; a class which has in all ages, and in all countries, formed the most respectable and influential portion of every community. This title too would be one, which the law of England recognises as the only true and safe title to the soil. Under such a title alone, the proprietor will feel himself justified and encouraged to undertake all the improvements which the land is capable of. I have heard it suggested that this system would still be artificial, inasmuch as the squatter would nominally buy one section only, which would contain the water, and therefore virtually secure to him the whole run. But this argument falls to the ground, when it is remembered that the lands are to be sold by auction, and if any special lot forms the key to a large back run, it will doubtless fetch a corresponding price at the sale.

32. With regard to immigration, what is your opinion as to the prospect of an immigration fund under these Orders—you observe that there are rents which are to be appropriated in the same way as the proceeds of land sales?—I do; and there are also taxes and assessments to be imposed by the Local Legislature.

33. You are aware that the Council have decided that those assessments are to be applied to local purposes—that they cannot be applied to immigration?—I suppose this applies to the assessment only, which has been imposed, but not to any farther assessment which may be still imposed. If the squatters have got these lands too cheap by the new regulations, and the Legislative Council have the power to assess squatters, a proportionately high assessment seems the only mode to equalize matters somewhat.

34. The Council have decided against that, and we must therefore look for immigration to the rents now imposed, and the Committee wish to know whether in your opinion the rents would provide for a sufficient immigration, or whether they would be a sufficient security on which to obtain a loan for that purpose?—I doubt whether any loan could be contracted on the security of the lands, alienated as they will be under the new regulations.

35. There will be an annual revenue supplied by the rents from leases? That will be too insignificant for the purpose of immigration, and eyen if it were sufficient to provide for interest, there is no security to offer for the principal.—I do not think the lands would be taken as a security for a loan, when leased under the new regulations.

36. You would not consider it a safe investment?—I do not think it would be taken without the guarantee of the British Government.

37. (*By Mr. Foster.*) Have you ever calculated what the revenue derivable from these leases would be?—I have not.

38. You do not know for what amount of loan they would pay the interest?—I do not know the precise amount.

39. Do you not consider the land will yield a more ascertained and certain sum under these leases than during the time that there were mere licenses which were liable to be altered at the will of the Crown?—I do not see that it will, in any way, be more certain than it has been hitherto.

40. Looking at the question as a capitalist, do you not think the land has a more ascertained value under the system of leases than formerly?—I scarcely think it has.

41. You said that the lands of the colony are too much tied-up from purchase by this system—do you not think this evil might be done away, by making a greater reserve in the settled and intermediate districts—by having a larger margin?—Yes, but I understand that by these regulations the lines have been drawn.

42. But would not a great deal of the evil have been done away if instead of drawing the line at three miles from the sea-coast, it had been drawn at a hundred miles from the sea-coast?—The evil would have been lessened.

43. If a sufficiently large amount of land had been reserved, and the price of land had been reduced, might not a large sum have been raised for immigration, even if the rest of the lands of the colony had been leased?—It would have left so much more land open for sale, and so far it would have been more desirable. But the proceeds of these sales being applied to the introduction of labour, and this labour being absorbed by the squatters in the interior, the alterations you propose would not, I think, have made the scheme more equitable.

44. Do you think, under the system I have suggested, nearly as much would be sold as under any other system?—No. I think the greatest quantity of land that can be sold in this colony will be land fit for pastoral purposes, and likely to ensure adjacent runs; I do not think that land is saleable in any great quantity for agricultural purposes.

45. What do you consider a *bonâ fide* squatter could afford to pay for his land here?—No squatter could afford to buy his run; it would not pay him.

46. What could he afford to pay for a section for water frontage?—That would depend upon how far that section would control others. If the land were put up to auction it would fetch its value.

47. You would not have land put up at higher than 5*s.*?—I think 5*s.* per acre should be the highest minimum price.

48. Is not that practically a prohibitory price for squatting lands in the interior?—No; I think that at 5*s.* every squatter would buy some land; there are generally some portions of a run more important than the rest, and I think if that were put up at auction it would bring its value, not only its abstract value, but its relative value, as securing the surrounding country.

49. You would recommend a system of sale by auction?—I do not think any other system would be so equitable.

50. Would you grant to the present occupant the right of pre-emption?—No, I would not.

51. (*By the Chairman*). Why?—I cannot see the grounds why the right should be granted; I think the proof lies the other way. I have heard many arguments in favour of the squatters to this right, but I do not think them tenable. They have already derived great advantages from the occupancy of these runs, and I see no grounds on which they can claim a continuance of these advantages, to which all Her Majesty's subjects would appear equally entitled.

52. (*By Mr. Foster*). You think they should be put to the hardship of finding a new station, after having found one?—It was not for the public good, but for their own, that they entered these pursuits, and occupied their runs; on entering into possession they had no assurance, or grounds for expecting

more than a temporary occupancy. When I enter into a mercantile speculation and fail, I have no claim upon the public in consequence. The same is the case with the squatter, who goes out with his sheep—he finds a station, takes possession, and after having remained there a long time, and made large profits, when the time arrives that the Crown claims the land, he contends for a right to retain it, from having discovered it. This appears to be the argument.

53. (*By Mr. Suttor*). You have said that no squatter could afford to purchase the whole of his run?—I think, generally, he could not.

54. If he could purchase the best parts of his run at 5*s.* an acre, or at a minimum price of 5*s.* an acre, and an extended system of immigration might be carried on from the funds derived from the sale of those lands, would not the increased population give an increased value to his lands, so that in the course of years the back runs which are now valueless would become valuable?—Increased population always give an increased value to land, especially in new countries.

55. Do you think there is no prospect of a fund for immigration?—I see none at present; and I think there will be a want of labour for some years to come.

56. Do you think the rising generation of this colony have been fairly dealt with by these Regulations?—I believe I have already stated that I think these Regulations, when carried out, will not work equitably to all classes in their operations.

57. (*By Mr. Icely.*) You say the Land Fund has been destroyed by the raising of the minimum price to 20*s.*?—Yes, or nearly so.

58. What effect has the system of squatting had upon the land proprietors with regard to the supply of labour; has not the squatter derived equal advantage with the landed proprietor from the fund obtained by the sale of land; that fund has been expended in the introduction of labour, by whom has that labour been employed?—In all probability, chiefly by the squatter.

59. Do you think the squatting system is fair to the purchaser of land?—I do not.

60. Why not?—The purchaser of land has paid for it. The squatter occupies it without purchase; and as he has the same command of labour as the purchaser, he has evidently an advantage over the latter.

61. Is not the squatter a competitor with the present purchaser of land, and in a position to undersell him?—As he has not paid for his land, he has not to take into account the interest on what the purchase would amount to, and so far his produce costs him less than the produce of the landed proprietor, who must take the interest on his purchase money into account.

Saturday, August 14, 1847.

Oswald Bloxsome, Esq., Manager of the British and Colonial Loan Company, called in and examined.

1. Do you consider that the raising of the minimum upset price of land to 1*l.* an acre has been advantageous or prejudicial to the colony? That it has been highly prejudicial.

2. In what respect?—I can only answer the question in almost the same words which I used when I was examined before the Committee on Crown Land Grievances in 1844; I then said—"I consider that no more effectual means could have been devised by the Government for stopping the sale of land altogether; I think also it has had the effect in England of preventing emigration to this colony of a class of persons whom it would have been most desirable to have had here, namely, small farmers with capital." I have not altered my opinion since then, and I still consider it a most imprudent act, for no matter what the real value of the land may be, people at Home look only at the fact that land in Australia, which is 16,000 miles distant, is sold at 1*l.* per acre, whilst land in the Canadas can be purchased at a dollar, and at the Cape for less than 2*s.* At the same time I am of opinion, that it will not pay any person to give 1*l.* an acre for land in this Colony, unless it is naturally cleared and of the finest description: the best land is usually the most heavily timbered, and would cost from 8*l.* to 10*l.* an acre to clear and stump it. If, therefore, you make any calculation of interest of money, and look to the original cost added to the expense of labour, you will find that it will be impossible for any person to reap a profit by way of rental. Thus, for instance, 640 acres of land, say of the best quality, would cost 640*l.*; the expense of clearing and stumping, at 8*l.* an acre (which is a low estimate) would be 5120*l.* additional, making a total of 5760*l.* which is equal to a rental at the interest of money in this colony, 10 per cent., of 576*l.* per annum. Now I am quite sure that no landed proprietor can afford to pay such an enormous rental as this, for the land to yield a profit; and my conviction is, that all who have purchased land in large blocks have spent their money most unprofitably. Of course when I say land is not worth 1*l.* an acre I do not include land bought for speculation or near a township, which may have quite an independent value; I only look at what it will return, and I maintain that even in a favourable season, you will find, after the expense of clearing and stumping, it will not yield a profit. With regard to grazing land, for mere sheep farming, no squatter could afford to pay a rental of even one penny per acre; as a run of 10 miles square would, by calculation which I have made, only feed about 10,000 sheep, and this apparently insignificant rent per acre would be upwards of 260*l.* annually.

3. What system would you recommend with regard to the sale of land; what minimum price, and what mode of sale would you recommend?—I have before stated that 1*l.* an acre is too much for the best land uncleared. If I were looking merely to immigration objects, I would say reduce the price of land to 5*s.* an acre, or lower, as an inducement to emigrants to come to this colony; but I am quite satisfied, that any person who purchased more land than he could bring into cultivation, even at that reduced price, would find it a losing speculation, and for grazing purposes it is quite out of the question; in fact, he could not purchase it at 1*s.* per acre. I find by a return made to the Government, up to the 30th of June, 1836, that the land comprised in the 19 counties was upwards of 25,000,000 of acres. of which, at that period, there had only been about 5,000,000 acres alienated, showing that there was abundance still left within the settled districts for cultivation, if required. It is true that the lands had been picked over; those who had grants of land of course selected the best; the next best was then put up to sale by the Government at 5*s.* an acre; the third best was again picked over at the advanced price of 12*s.* per acre; and the fourth, being of course of an inferior description, was, strangely enough, by an inverse ratio, set up at the price of 1*l.* per acre; still, out of this enormous quantity, there must be abundance left for all agricultural purposes.

4. What minimum price would you say?—Land naturally cleared, and fit for cultivation purposes,

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with means of transit convenient, is no doubt worth more than 1*l.* an acre. I can scarcely say what it is worth—3*l.* or 4*l.* perhaps; but whatever it may be worth, I must adhere to the opinion I have before given, that land should not be sold at all.

5. You would recommend a return to the system of free grants?—Yes, rather than that land should be sold at 1*l.* per acre, because in the present state of the colony, nobody can afford to expend capital in the improvement of land.

6. What is your opinion of these new Land Orders?—I think they will have a most favourable effect upon the colony.

7. Will you state in what way?—In the first place the funds that will be raised from the leases will be large, and will, I presume, be appropriated to the importation of labour, and the amount that will be realised from the sale of these lands must also be very considerable. There is one clause in these Orders, that which prohibits the settler beyond the boundaries buying or selling grain, which will render it almost compulsory upon him to purchase a portion of his run for the purpose of cultivation; and the smallest portion that can be purchased is 160 acres.

8. With what view would a squatter purchase this 160 acres?—Not only to have a comfortable homestead, but also to enable him to supply himself and his neighbours, if required, with grain in time of scarcity. Every person conversant with the bush knows that the squatter puts no more land into cultivation than is sufficient for the supply of his own station; and on the failure of a crop, (no infrequent occurrence in this climate,) they are compelled to assist each other by borrowing or purchasing, and it would be a cruel hardship if he had not the option of purchasing land upon which he might grow grain for his own or his neighbour's use.

9. Your district is New England?—Yes.

10. How are you supplied with grain?—I have generally grown sufficient for the supply of my own establishment at the station; but lately wages have been so high, that I have preferred sending to Sydney for flour.

11. Have you a very considerable land carriage?—Yes, 180 miles to the Clarence River, which is the nearest water carriage to Sydney; and sometimes from the state of the roads and the creeks being up, it has taken from eight to ten weeks to perform this journey and back again to the station.

12. You say you think there will be large proceeds from these leases; what do you estimate them at?—It is easily calculated. The estimated number of squatting stations is 2000, which, at 166 acres each, at 1*l.* an acre, amounts to 320,000.

13. I am speaking of the rents; do you think they will be considerable?—I do.

14. What do you consider they will be?—The last Government returns show the number of sheep beyond the boundaries to be 5,515,653, which, at 10*l.* for every 4000, will amount to 13,790*l.*; add to this 970,806 cattle, amounting to 19,410*l.*, and horses about 570*l.*, making a total of about 34,000*l.* per annum.

15. You think 160 acres would be sold on almost every station for the purpose of cultivation?—Yes; the clause in the new Land Orders before alluded to, almost compels the purchase.

16. It is your intention, as a lessee, to exercise your pre-emptive right at 1*l.* an acre?—Yes, to the extent of 160 acres; I consider that I have no alternative left.

17. As to the nature of the ownership acquired under these Land Orders; supposing a person to take a lease under these Land Orders in the unsettled districts for fourteen years, do you consider that the land is alienated, or that the colony would be able to resume it?—I see no difficulty in the Government resuming it. I think, however, that if squatting be a profitable employment, which hitherto it has not been, that the occupant should be able to throw up his lease at the end of fourteen years into the hands of the Government.

18. How do you think the ownership can be put an end to; what is to prevent the occupant from enjoying it for ever?—There may be some legal difficulty that I am not aware of.

19. Then you think that virtually it does amount to an alienation of the land for so long a time as the squatter may choose to hold it?—No, only for the period of his lease; it is an alienation so far that the land could not be turned to any other purpose than sheep grazing, unless sold, and no person would be so insane as to give 1*l.* an acre for land in the interior. It would not pay to grow grain to send down to Sydney, with 180 miles land carriage, and a possible detention upon the road of six or eight weeks.

20. With regard to emigration, you think there are means under these Regulations for providing the colony with emigration; will you state how it is to be done. You say you think 160 acres would be purchased on most of the runs?—Yes, and I think the leases will bring in a large revenue.

21. Do you think money could be raised on these lands, or that the rents would form a good security for the interest of a loan?—I have no doubt they would.

22. Without any guarantee from the British Government?—I think so.

23. (*By Mr. Foster.*) Would you not consider the rents from these leases a better security than the rents from licenses, or the chance sale of land that might take place under the present system? Undoubtedly; the facts speak for themselves, for there are no Government sales of land at present.

24. You have said you would exercise your right of pre-emption at 1*l.* an acre?—Yes.

25. Would you do so to a larger extent, if the minimum price were reduced to 5*s.*?—Certainly not.

26. Do you think squatters generally would?—I do not think that in one case in a hundred, squatters would purchase more than they required to keep in cultivation, merely for the supply of their stations.

27. You have said you would approve of reverting to the system of free grants in this colony; I should infer from that, that you would much prefer the system of leasing the land to selling it altogether?—Yes.

28. You consider it a fair restriction that the squatter should not be allowed to cultivate Crown lands for the purpose of sale or barter?—I have no doubt that the object was to protect the settler who had purchased land under the old regulations.

29. Do you think that equitable?—Yes; I do not object to it. The land without the run is utterly valueless, but so long as the purchase of 160 acres insures to you the occupation of the run for fourteen years, I do not see much to complain of; I look upon it as a sort of premium paid to Government, for being allowed the occupation of the run, just as a person would pay a premium on the renewal of a lease.

30. Do you think it any hardship upon the squatter that he should be required to buy land for the

purpose of cultivation?—No; as we have the option given us to purchase what quantity of land we require for our own purposes.

31. Do you think this restriction will, in fact, prevent any land being brought into cultivation?—No, certainly not.

32. (*By Mr. Sutter*) You say you would not recommend that land should be sold at all, but that it should be granted?—I do; as a lesser evil than the pound an acre system.

33. How would you propose that it should be granted—would you propose that the squatters' stations should all be cut up into grants?—I beg it to be understood, that I do not advocate the system of free grants, as I think that the Government could not afford to give away the land for nothing, but should have a return for it in some shape or another. I only object to the pound an acre system, and consider that of the two evils, it would eventually prove of more advantage to the colony, were the land actually given away by the Government, than that they should abstract from the pockets of the colonists large sums of money for that which can never yield them a proportionate return.

34. You would prefer the system of leases to a free grant?—Yes.

35. Why do you consider it preferable?—Because the system of leases would yield a return to Government, whilst a free grant would not.

36. You have stated that you consider the system of leasing will produce a large sum for the purposes of emigration?—Yes, and beyond that I think persons living on their homesteads will now be induced to bring out emigrants at their own expense.

37. What would you propose should be done with these emigrants upon their arrival—how should they be employed?—Either as farm labourers, on the homesteads, or as shepherds.

38. Would you consider it to be equitable or just to these parties that they should be doomed to be perpetually the servants of the present occupiers of the land?—They would not be perpetually their servants more than they are at present.

39. They would for fourteen years?—I cannot see that; it is not the custom of the colony for men to engage for so long a term; the engagements being generally from year to year; besides a servant can readily contrive to escape from his agreement, whilst the master, from the want of labour, is generally at the mercy of the servant. And looking to the condition of the labouring classes at home, I do not think they would consider it a hardship to receive wages varying from 20*l.* to 30*l.* per annum, independent of the usual ration of 10 lbs. of meat, 10 lbs. of flour, ¼ lb. of tea, and 2 lbs. of sugar, weekly.

40. In what way could a man with small means invest his capital?—If he had a large family I should recommend his going into the bush, and turning wool-grower.

41. Where could he go to?—To any of the squatting districts.

42. You would recommend his taking up a squatting station?—I would, certainly.

43. Do you think that any squatting stations are now to be picked up between the present squatters?—Plenty of them, I am quite sure that hundreds of squatting stations may now be found for looking for them.

44. I presume you mean that there are stations now which do not pay any license?—Yes.

45. But they are occupied?—No, they are not, and never have been. I have myself recently taken up a station in the centre of my own district, which any person might have had for years past, but they preferred going on to a new country.

46. You have stated that you considered fourteen years a long time to have a station, and that at the end of that period the occupant ought to be willing to throw it up?—I said if squatting were worth anything the squatter ought to have made sufficient in that time to enable him to do so.

47. Do you think the squatter would do so?—I don't see any reason to doubt it, because he is allowed compensation for his improvements.

48. Only in case of the party who succeeded purchasing?—I assume that the party would be willing to make compensation, as he would derive the advantage.

49. (*By Mr Faithfull*). When you stated that you thought more land would not be sold at 5*s.* than at 20*s.*, I suppose you meant that a larger quantity would not be sold if the Land Orders came into operation?—I stated, that under these Land Orders I did not think any squatter would purchase more land than he required for cultivation purposes.

50. Do you not think if there were no leases, and if the price of land were reduced to 5*s.* an acre, that people would then purchase?—Very likely they might; some people like to be the possessors of large tracts of land, but I think it would be a great injury to the colony, as it would encourage speculation to a large extent.

51. (*By Mr Suttor.*) Do you think the late crisis was brought about by speculations in the purchase of land?—No doubt of it.

52. In what way?—You have only to look to the accounts of the sales of land in the years 1840 and 1841, and to the enormous prices realised by the Government; the land in question remaining to the present day totally unimproved, thus conveying the money out of the pockets of the settlers into the hands of the Government, for which the former never received any return.

Saturday, August 14, 1847.

William Hall Palmer, Esq., M.D., called in and examined:—

1. Have you been long in this colony?—Twelve years.

2. You are conversant with pastoral pursuits?—Yes.

3. Do you consider that the raising of the minimum upset price of land in this colony to 1*l.* an acre was beneficial or otherwise?—I consider that it was most injurious.

4. Why?—It destroyed the land fund for bringing out immigrants, which I consider the greatest injury that could be done to the colony. I do not consider any land in the colony, unless it be in a very favourable position, worth 1*l.* an acre.

5. What system would you propose for the disposal of the waste lands of the colony, in lieu of the present?—That the minimum price should be brought down to 5*s*, and that all land should be put up to auction.

6. You would have that an uniform price?—An uniform price, unless a small quantity were put up.

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W. H. Palmer, Esq. M.D.

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If a section of land of 640 acres were put up, that should be the price, but if a small quantity it, would raise the price.

7. Have you read the recent Land Orders?—Yes.

8. What is your opinion of them?—My opinion is, that they will be beneficial to a certain extent, but at the present price the land never will be sold, and there will therefore be no fund for immigration, which I consider to be the first and main point for the colony.

9. You do not think the pre-emptive rights given by these Orders will be exercised?—No.

10. What is the benefit you see in them?—I see no particular benefit except to those in possession; it will give them a good title to the land.

11. You consider that they will virtually obtain the ownership of the land?—Yes.

12. Can you see any way in which the ownership can be put an end to?—No other than by reducing the minimum price of land; as long as the minimum upset price is 1*l.* an acre, I consider the present occupants as safe in their possession as if they had bought the whole.

13. You say that you consider these Orders will be injurious to immigration—in what respect?—There will be no fund to devote to that purpose.

14. You are aware that there is a rent reserved of 2*l.* 10*s.* for every thousand sheep, do you take that into your consideration when you say that there will be no fund for immigration?—Yes, but that will be very insufficient; and I do not think emigrants with capital will come out when they find all the land taken up. Unless the price of land is lowered, there will be no purchasers.

15. (*By Mr Suttor.*) Do you think it fair to the purchaser of lands within these boundaries, who has been compelled to purchase land for grazing purposes, that these leases should be given to the squatter?—I do not consider it to be unfair to the purchaser of land, for this reason, that the parties in possession would have had the land, whether the Government had given them these leases or not.

16. The price of 1*l.* an acre would have prevented any purchases?—Yes, and therefore these parties would have occupied; these Orders only give them firmer possession.

17. You are aware that the funds derived from the sale of land were expended in immigration?—Yes.

18. Have not squatters hitherto derived the benefit of that immigration equally with the purchasers of land?—Certainly.

19. And the competition of the squatter with the purchaser of land has tended to increase the price of labour?—Yes; no doubt if he had purchased land the same as parties within the boundaries, he would not have been able to employ so much capital in sheep and cattle.

20. You have said you would recommend that the price of land should be reduced to 5*s.*, and be open to auction; do you mean that the land should be open to sale to anybody who chose to apply for it?—Yes, I consider that if it is brought into the public market, it will bring its fair value.

21. You would not allow the squatter the right of pre-emption?—I would not, but I would certainly allow him remuneration for his improvements.

22. Do you think if the price were reduced to 5*s.*, a large quantity of land would be sold?—Yes, I think a large quantity would be sold now within the limits at 5*s.*; there is a very large quantity of capital now lying idle, which could be invested.

23. (*By the Chairman.*) Do you see much difference between the intermediate and unsettled districts?—No; I think one part is as good as another.

24. (*By Mr. Suttor.*) Do you think the colony will suffer materially from not being able to introduce labour?—I think it will not be possible to carry on sheep farming.

25. Do you think the squatters themselves will be able to carry on their extensive concerns without immigration?—No, certainly not; I am not an advocate for large flocks.

26. (*By the Chairman.*) You are of opinion, as a practical sheep farmer, that it pays better to run sheep in small flocks?—Yes; I run mine in about one of the worst runs in the colony, and none of my breeding flocks are above 550; the dry flocks are about 600, or in some instances 650, and I find my returns are quite equal to those who keep larger flocks.

27. You say you do not think the squatter will exercise his pre-emptive right—do you not think he will buy a homestead?—Not under these regulations, because if any portion is purchased he is liable to an increased rent.

28. (*By Mr. Cowper.*) Were you in the colony when the scheme of selling land was first introduced?—No, that was a short time before I came.

29. You were here during the time the land was put up at 5*s.* an acre?—Yes.

30. From what you saw of that system, do you not think it was much preferable to any that has been adopted since?—Certainly.

31 Do you think there was any reason for changing it?—No; I think people ran away with the idea that the land was more valuable, but I do not think it worth 5*s.* generally; I would not, however, reduce the price below that.

32. You would not sell land that was not worth 5*s.*?—No; I would not sell 640 acres at a lower price, and for a smaller quantity I would require a higher upset price, because parties might pick out choice blocks of perhaps 100 acres, worth considerably more.

33. Do you think there is any such objection to the system of selling by auction, as to induce you to recommend that it should not be again resorted to?—No; I think under any other system parties might annoy the occupants of land, by purchasing the choice portions of their runs, without giving the occupants the opportunity of protecting themselves.

34. Is it your opinion that a great deal of the land which was sold formerly at 5*s.* per acre, was so sold because the parties who purchased apprehended that the price was about to be raised?—I have no doubt that it was so; but I consider that a large quantity of land was sold then, because we had the advantage of obtaining convict labour, which we should not now have, and therefore I think so large a quantity would not be sold.

35. You do not think the reduction of the price would give rise to an artificial state of things, which might produce such a crisis as before?—No, there is not the same inducement now, as I know that formerly many persons bought land at 5*s.* for the purpose of obtaining convict labour.

36. Have you formed any estimate as to the probable amount of revenue to be derived from the operation of these Orders?—No.

37. If the terms of the Land Orders are strictly carried out, there will be a large revenue from that source?—Yes.

38. Do you think they will be strictly carried out?—No.

39. (*By the Chairman.*) Are you aware how these stations are to be valued—the commissioner is to be one party?—Yes.

40. Do you think they will be fairly valued?—I think not.

41. Who would be the persons to value them?—I presume the commissioner and a surveyor.

42. Could a surveyor value them?—Certainly not; he could not speak to the capability of a run.

Monday, August 16, 1847.

Present:—

ROBERT LOWE, Esq., in the Chair.

GEORGE ALLEN, Esq.	THOMAS ICELY, Esq.
CHARLES COWPER, Esq.	JOHN LAMB, Esq.
WILLIAM PITT FAITHFULL, Esq.	WILLIAM HENRY SUTTOR, Esq.

George Leslie, Esq., called in and examined.

1. (*By Mr. Cowper.*) You reside at Darling Downs?—Yes.

2. How long have you lived there?—Seven years; I believe mine was the first station formed at the Downs.

3. What was the nearest station to you when you first went to the Downs?—I believe the nearest was Mr. Windham's, at Frazer's Creek, which was about 200 miles from us, according to the road we went, although it was not so far in a straight line.

4. What district is that now in?—New England.

5. Had anybody been in your district previous to your going there?—No whites, excepting Mr. Cunningham, who discovered the Darling Downs.

6. What do you think ought to be the minimum price of land in this Colony?—I am not competent to speak with reference to the minimum price of land within the boundaries, as I am not much acquainted with the country; but I would say 1*l.* an acre for land beyond the boundaries.

7. Why would you fix the minimum price of land beyond the boundaries at 1*l.* an acre?—For this reason, that I think land is not worth 1*l.* an acre in any part of the Colony, unless for the purpose of agriculture; for grazing purposes it is scarcely possible to name a value for the land, as the extent of country required is so great.

8. Then you consider it valueless?—Almost so.

9. Upon what calculation, then, do you arrive at the conclusion that the land is worth 1*l.* an acre?—It is only worth that for a particular purpose, and in a small quantity.

10. I do not clearly understand you; do you mean to say that arable land beyond the boundaries is worth 1*l.* an acre, or that both agricultural and pastoral lands are worth that sum?—No, pastoral land is not worth 1*l.*, or anything like it.

11. Why would you, then, fix that as the price?—I think some price must be fixed. If I am asked what price, I must fix a price which will pay the expense of improving the land. I consider the value of land for pastoral purposes merely nominal.

12. Do you fix 1*l.* an acre upon these lands merely to prevent their being sold?—I am not prepared to give my reason at the present time.

13. Within what period of time do you think it likely that these lands will be saleable at 1*l.* an acre?—I can scarcely look forward to any time when they will be saleable at 1*l.*

14. Then you think 1*l.* an acre is almost as much a prohibitory price as 100*l.* would be?—No, I do not think so at all; because I presume that Government will, at some time, establish townships in the interior, in what are termed the intermediate districts, and, of course, at those places land may be saleable at 1*l.* an acre.

15. You think the sale of land at 1*l.* an acre will, for a very long period, be limited to such lands?—Yes, to lands adjacent to townships.

16. Do you think squatters are likely to purchase much land under the general operation of the recent Orders in Council?—I think there may be some who will.

17. Have you read the Orders in Council?—I have read them, but not with the attention which I should have done had I anticipated being examined by this Committee. I think it probable that the squatter would, for his own satisfaction, purchase the land upon which his buildings were erected.

18. To what extent do you think he would purchase?—The smallest extent which would include his buildings and improvements.

19. You think if the purchase of 160 acres would secure all the buildings and improvements on his run, the squatter would not be likely to purchase more than that under the proposed system of Land Orders?—No, not if that quantity of land would comprise all his buildings and improvements; but there are very few stations where that would be the case—the buildings are generally scattered over the run; the house may be on one piece, the wool-shed on another, and other buildings at another part.

20. Would the object of purchasing the land be merely to secure the buildings and improvements?—I am not prepared to answer that question, because the land is secured to the squatter by the Land Orders.

21. What would you think of reducing the minimum price of land to 5*s.* an acre—do you think there would be more sold then than at present?—No, I do not.

22. Why not?—If a person gets possession of the land on which his improvements are, I do not see that he is more benefited if he buys four times one hundred and sixty acres of land than if he buys one hundred and sixty; he would be as well off with one hundred and sixty acres at 1*l.*, as with six hundred and forty acres at 5*s.*

23. That is assuming that a fourteen years' lease is guaranteed?—Yes.

24. And with that guarantee he is as well off with 160 acres as if he had bought the whole run?—No, not as if he had bought the whole run; the difference is between 160 acres at 1*l.*, and 640 acres at 5*s.*

25. Do you think these Land Regulations have given satisfaction to the colonists?—I do.

26. You think they are satisfactory to the squatters?—I think they are to all parties.

27. What do you think is the great advantage to the colony generally?—I think it ensures the squatter an interest in the colony which he never enjoyed before.

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28. What do you particularly refer to as the advantage which he never enjoyed before?—The squatter had no permanent interest in the colony.

29. I ask with respect to the colonists generally; you say you think these regulations are fair to all parties; I ask what advantages they present to the colony at large?—I think that what is to the interest of the squatter is to the interest of every one in the colony; what benefits the squatter benefits every other person in the community.

30. (*By the Chairman.*) Supposing the Government were to take all the money that is in the banks, and to divide it among the squatters, I presume that that would benefit the squatter—would it be beneficial to the rest of the community?—I do not suppose such a case very probable.

31. I was testing your principle?—I do not think the two cases are to be compared.

32. Well then, instead of money say that land is taken from the public and given to the squatters, do you think that beneficial to the colony?—Yes.

33. Will you state why?—Because the rest of the colony is principally dependent upon the squatters; and the staple of the colony is wool, of which the squatter produces the greatest part.

34. (*By Mr. Suttor.*)—Do you think if land were thrown open for sale, at the minimum upset price of 5*s.* (say the whole of the squatting stations), that land in any quantities would be bought?—I do not.

35. You are aware that large tracts of land were sold some years ago, within the counties, at 5*s.* an acre and upwards?—Yes.

36. Do you know any reason why the land should not be sold now at 5*s.* as readily as at that time?—I think at that time people had but little experience of the value of the land; they know better now. The land which was bought some ten years ago at 5*s.* an acre is not worth a penny now.

37. If your station were thrown open to sale at 5*s.* an acre, would you be under no apprehension of losing it?—That would depend upon the principle on which it would be open to sale.

38. If it were put up at 5*s.*—not less than 640 acres to be sold?—I do not think it would at all affect me, because my station is too well watered; it might affect those stations which are badly watered, as parties would pounce upon the water frontage.

39. Do you not, under these circumstances, think your tenure good enough without these leases?—No; I do not.

40. You hold possession from the Government?—I do not exactly understand your question.

41. You say your land is valueless, that it would not fetch 5*s.* an acre if it were put up for sale, and that you would be under no apprehension of losing your station if it were put up?—I might lose a little bit here and there, but I should be under no apprehension of losing the whole. A person might go into the auction-room and purchase a piece, not knowing what he was buying, and afterwards find it was of no use to him.

42. Have you thought of any plan by which funds might be raised for the purpose of immigration, other than the sale of these lands?—I think the money that may be raised from the licence fees, and from the land that may be sold, will be quite sufficient to bring out labour, perhaps not to the full extent we require, but for our immediate and pressing wants.

43. (*By the Chairman.*) You say sufficient for our immediate wants, but how are the future wants of the colony to be provided for?—I do not think the squatters, or any other persons in the colony, are in a position to entertain future wants by a present outlay of money.

44. (*By Mr. Cowper.*) Would the squatters be induced to purchase land in order to raise a fund for the purposes of immigration?—I think they would if they had the means.

45. (*By Mr. Suttor.*) You have stated that you think a squatter would buy 160 acres to secure his improvements; by the 16th clause of these regulations you will perceive that in case any part of the run should be sold, the occupant would be liable to an increased rent, and that should a fourth be sold, he could not claim a renewal of the lease; do you not think that would tend to deter the squatter from purchasing 160 acres?—No.

46. (*By Mr. Cowper.*) It would rather act as an inducement not to buy than to buy?—I do not think it would act either one way or the other, as there is no likelihood of the land being sold in such quantities, and if it were, it would entirely depend upon what the increase in rent would be.

47. You would have to buy the land first, and then to trust to the Government as to what the increased rent should be?—I should be perfectly satisfied to depend upon the Government.

48. (*By Mr. Suttor.*) Would you not rather have the lease without making that purchase?—It is liable to be purchased by other persons as well as by the occupant.

49. (*By Mr. Lamb.*) Is your station within the intermediate or the unsettled districts?—The unsettled.

50. You are entitled then to a 14 years' lease?—Yes.

51. You approve of 1*l.* an acre being the minimum price of land beyond the boundaries?—Yes.

52. You do not expect that a quantity of your run, equal to one-fourth, will be sold at 1*l.* an acre?—I do not.

53. Then I presume that under these orders you will get another 14 years' lease at the expiration of the present one?—Of course I cannot answer that; I hope so.

54. Do you see any probability of any portion of it being sold?—No; excepting any that might be adjacent to a township if one were formed there.

55. (*By Mr. Cowper.*) What do you imagine to be the construction of the 9th clause of the second chapter of these Orders: "That nothing in these regulations, or in any lease to be granted under the powers vested in the Governor, shall prevent the said Governor from making grants or sales of any lands within the limits of the run or lands comprised in such lease for public purposes"—after communicating a variety of objects to which the land may be appropriated, the section proceeds—"or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the colony"—do you see anything there which limits the Governor's power of taking lands merely to the taking them for townships?—No; I do not.

56. (*By the Chairman.*) Then after all your fixity of tenure results in your being tenants at will to the Government?—It does in a manner, but still I think we have no reason to fear that Government will act in an arbitrary manner.

57. You are however of opinion that Government have the power to oust you without compensation?—No; not without the land is required for any of these purposes.

58. Suppose they desire to sell the land at 2*s.* 6*d.* an acre, and think that would tend to facilitate the settlement of the colony, is there anything to prevent their doing so?—Of course the general tenor of the Act will be considered; I do not see what would be the use of having a lease if such a clause were to be taken advantage of.

59. The question has been asked of other witnesses, and it has been suggested that it is true that this is not a defence against the Government, but that it is a protection against jobbers, or land-sharks as they have been termed—is that your opinion?—I think the Government alone have a right to make use of it.

60. (*By Mr. Lamb.*) You have stated that you do not think it probable that parties will purchase a fourth part of your run, and that, therefore, you will be able to claim a renewal of your lease?—I would not state anything of the kind. I cannot look forward for fourteen years to say what will take place.

61. I am supposing *à priori* that these orders are unrepealed, and that the price of land is kept up to the present rate?—It is impossible to say what I might wish at the end of fourteen years.

62. If these orders remain in force, and the price of 1*l.* an acre is maintained, you suppose that no part of your run will be purchased, or not a sufficient extent of it to deprive you of the right of claiming a renewal of your lease?—By a run, I understand a block of 25 square miles.

63. Capable of carrying 4000 sheep?—A person may have five, six, or ten runs, and his buildings or improvements may be only on one; that which he has improved he might possibly lose.

64. You think he might be deprived of that run if the price remains at 1*l.* an acre?—That would depend entirely upon the position of the run.

65. Supposing the British Government should see fit to reduce the price of land to 5*s.* an acre, do you think a much greater quantity would be sold?—I do not. Persons will sometimes buy things that are of no use, and a party might purchase a piece of land on a run occupied by me, which would put me to inconvenience, but which would be of no use to him.

66. You think at 5*s.* an acre such a proceeding might take place?—It is possible.

67. But except as regards the inconvenience to yourself and others in a similar position, do you see any reason why parties should not exercise their own discretion in buying what they think proper?—I think it would do more harm to the Government that it would to the squatter.

68. Will you explain how?—If a person purchased a certain quantity of the land, the remaining part would not be worth so much; the runs would be broken up, and the value to the squatter and to the Government would be destroyed at the same time.

69. What distance is your head station from a shipping port?—From Brisbane it is 95 miles.

70. What quantity of acres do you occupy?—Fifteen miles by eight is what it is estimated at.

71. Do you recollect the number of acres comprised in that area?—I have not stated the number of acres in my return; I think the area I have mentioned includes five runs.

72. What quantity of sheep is it capable of bearing?—I have sheep, cattle, and horses upon it; I could not say anywhere near the number that it would carry.

73. Is there no part of your run that is fit for arable purposes?—Yes, a great part of it is fit for arable purposes.

74. Considering that it is only 95 miles from a port, do you not think that within no distant period it might be saleable for arable purposes?—It might, if you carried the main range away, and made a good road to it.

75. Over those ranges are there not roads available for laden drays?—Of course there must be roads of some kind, in order that we may get our wool down; but the state of the road is one of our greatest drawbacks.

76. Would a moderate sum expended on those roads make them easy of travel, or would it require a very great outlay?—I do not know what you would call a moderate sum, or what you would consider a very great outlay.

77. Would 2000*l.* or 3000*l.* expended on that road make it easy of travel for laden drays?—No doubt 2000*l.* or 3000*l.* would make it better, but not very much so.

78. (*By the Chairman.*) Would it require a great deal of blasting to make it a good road?—No, I do not think it would.

79. Is it not a very steep road?—It is; but it might be made a good road by cutting.

80. (*By Mr. Lamb.*) Are there at present any small settlers or squatters cultivating land in that district for agricultural purposes?—I do not think there is one near me.

81. Do you cultivate for the use of your own establishment?—To a certain extent I do.

82. How are you supplied with the remainder?—I get it from Sydney, by sea to Brisbane, and take it from thence by drays.

83. In the shape of flour?—Yes.

84. Do you get it in that way cheaper than if the corn was grown by yourself?—Yes; calculating all the expenses, I do not think I could grow it so cheaply, on account of the scarcity of labour, and the consequent high rate of wages.

85. What quantity of wheat per acre would the lands you have cultivated yield, in ordinary seasons?—I have not studied the matter, but I calculate that the average crop of wheat would be about 15 bushels to the acre; but out of the six years that I have cultivated the land there, the crops have failed entirely twice.

86. From drought?—Yes.

87. The mode of cultivation there, as in other parts of the colony, is not the most scientific, I presume?—No.

88. Do you manure your land?—Yes; I think I have given the land every advantage it could have.

89. Have you ploughed deeply?—Yes.

90. (*By Mr Allen.*) You say you reside 95 miles from Brisbane?—Yes.

91. Are there any stations between you and Brisbane?—Yes, many.

92. Do you think if those stations were put up for sale they would fetch any sum of money?—If they were put up for sale—in what way?

93. You have told the Committee that you think the minimum price of land ought to be 1*l.* an acre, but that you consider the land beyond the boundaries to be valueless; now supposing some of the land close to Brisbane were put up, what sum do you think it would fetch?—1*l.* an acre, readily; and aso land in the neighbourhood of Ipswich.

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94. At how far from Brisbane do you think the land would cease to fetch 1*l.* an acre?—There ar only certain parts that would be fit for agriculture.

95. What would be the value of land at the commencement of the unsettled district?—I do not think it would be sold for pastoral purposes.

96. Would it be sold at 1*l.* an acre for any purpose?—I think a small portion for agricultural purposes might.

97. At how far from Brisbane do you suppose land would sell at 1*l.* an acre?—Only very small sections here and there for a few miles.

98. Will you state why it is, if you think the land nearly valueless, that you propose the continuance of the minimum price of 1*l.*—do you not think that by keeping the price at 1*l.* the land will remain in the hands of the squatters as long as they choose to have them?—Yes, I do; and I think it would be the same at 5*s.*

99. (*By the Chairman.*) You have had your attention called to the nature of the tenure given by these regulations,—to the circumstance that at the end of 14 years a person holding a lease will have a right of renewal—when a person has once got a lease, can you fix a period when the land would revert to the Government?—At the end of 14 years.

100. The party holding the lease has the right of renewal at the end of 14 years?—The orders do not say for what time.

101. You think that at the end of the 14 years the renewal would be for a short time?—It might be for only one year.

102. Do you think that is likely to be the case?—No.

103. You do not think the squatter who obtains a 14 years' lease under these regulations gets the land out and out?—No, I do not.

104. You think at the end of 14 years it will be competent for the Government to grant short leases?—I do not say that either.

105. You do not think the squatter would complain of a breach of faith if the Government were to renew these leases only for one year?—No.

106. (*By Mr. Suttor.*) Do you think it a desirable state of things that so large and important a class as the squatters should be in the position of tenants of the Crown; would it not be better that they should have the fee simple of their runs, or of a portion of their runs?—I do not see how a fund for immigration would be raised then.

107. Would not the squatter be more independent of the Crown?—I am not prepared to say.

108. Would it not be to the advantage of the Colony?—I am not prepared to say.

Monday, August 16, 1847.

O. Fry, Esq.

August 16, 1847.

Oliver Fry, Esq., Commissioner of Crown Lands for the Clarence River District, called in and examined.

1. How long have you been Commissioner of Crown lands?—Since 1841.

2. What is your opinion of the minimum upset price of land of 1*l.* an acre?—I think it is immensely too high.

3. What price would you propose—would you propose an uniform price, or would you recommend that the price should vary in different districts?—It should depend upon the locality altogether.

4. Will you give your views with reference to this subject: supposing the old system were about to be remodelled, what would you recommend?—All the lands that were to be sold should be put up to auction, and I would leave the price to be determined by public competition.

5. Then there is some land that you would not sell?—There is some which is not worth purchasing.

6. Would not competition decide that point?—I may answer that question by saying that I would sell by auction, lands in particular localities, as for instance on the banks of navigable rivers, and in other places fit for agricultural purposes: but land only fit for pastoral purposes I would not sell.

7. Can you form an estimate as to the size of your district?—The whole of the district is not occupied; that portion of it which lies between Richmond River and Moreton Bay is covered with brush and scrub; the portion which is occupied is about 100 miles square.

8. It lies between the dividing range and the sea?—Yes, to the eastward of the range, and extends to about 28 or 30 degrees.

9. (*By Mr. Cowper.*) Is the scrubby country you speak of likely to be ever occupied?—Five or six centuries hence it may; it is the best possible land, but it cannot be cleared; it is covered with immensely heavy timber, chiefly a kind of pine.

10. It is not suited for grazing sheep?—A rabbit could not graze there; but it is a deep dark rich soil.

11. (*By the Chairman.*) Does it extend to the bank of the river?—Right down to the river.

12. I presume it does not offer greater difficulty to cultivators than the forests of Canada?—I never saw the forests of Canada, but it is as densely timbered as I can easily conceive.

13. (*By Mr. Lamb.*) I suppose cattle can find their way through it?—No; the vines and creepers form an almost impenetrable barrier; when I go through with my men, I am obliged to make them cut paths with their swords.

14. (*By the Chairman.*) What number of stations are there in your district?—Seventy-eight.

15. Can you state the largest and smallest in your district occupied exclusively as squatting stations—are there cedar-splitters in your district?—Yes.

16. Do these cedar-splitters take out depasturing licences?—No.

17. They employ bullocks?—Yes; they hire them from the squatters.

18. Are there any persons who take out licences who are not merely squatters?—Yes, a few publicans and mechanics.

19. How many?—Half a dozen, perhaps.

20. What number of sheep would the smallest station, occupied exclusively for pastoral purposes, depasture?—When a run is given, it is not only for the stock brought on, but also for the increase for three years. I do not think any station, exclusively squatting, in the district is under four miles by two.

21. And what should you estimate the largest at?—The largest, I think, is 17 miles by five.

22. Does the average lie pretty nearly between those two?—The average is about 40 or 50 square miles; very few under 50.

23. Do you consider that the stations run larger or smaller in your district than in others?—I think the stations lie tolerably close together. It is well watered, indeed too well for a sheep country; it is, however, an admirable cattle district.

24. Is it suitable for growing wheat?—No; it would do well for cultivating maize.

25. Would your district be capable, where the lands are naturally cleared, of supporting a dense population?—At the lower part of the river, if people could live on pork, maize, and pumpkins it would support a dense population.

26. There is a portion of the land reserved in this district?—Yes, 50 miles from the sea, measured in a straight line on the Clarence.

27. Would that take in most of the good land?—Yes, that takes in far too much; 30 miles would be ample; it would take in all the good land, and all that lies on the navigable parts of the river.

28. Ten miles round the town that has been established at the head of the navigation, how far is that up?—Forty-five miles, by following the course of the river.

29. Richmond is in your district, I believe?—Yes.

30. Will the reservation on the banks of the Richmond, measured along its course for 20 miles, include a large quantity of good land?—It will not take up an acre of land worth sixpence. The river, after you enter the heads, runs away to the southward, nearly parallel with the coast, so that the whole 20 miles would not take in five miles of country, and for the first 15 miles the banks of the river are nothing but swamps; had the Orders named 30 miles inland, they would have included nearly all the good land.

31. Between the township and the coast there is some good land?—Yes, the good land principally lies about the settlement.

32. Is this a healthy district, or is it not visited by ague and fever?—It is enervating, but there is no ague there.

33. There is to the southward, is there not?—I believe there is in the brushes, where there is a great deal of vegetable decomposition.

34. Have you read the new Land Orders?—Yes.

35. What is your opinion of them?—Except so far as these reservations are concerned, I think they are tolerably fair.

36. (*By Mr. Cowper.*) Do you think much of the land you speak of within 30 miles from the sea would sell at 20*s.* an acre within a reasonable time?—I think a great portion of it would, because it is on the banks of a navigable river, and the only one that occurs on a long line of coast.

37. Is much population flocking there?—If the land were sold, no doubt a large population would flock there.

38. Is there any difficulty about putting up the land there at 1*l.* an acre?—No; the Government intend putting it up.

39. You think it would sell?—Yes; I am sure that I could get 50*l.* an acre for some that I have, by putting it up in small allotments; that is in the vicinity of Grafton.

40. What is the distance from the town to the nearest squatting station?—Squatting stations surround the town; in fact it is absurd to call it a town, there are only two or three public-houses and a blacksmith's shop there.

41. What is the character of the population you have there?—I think the people are very well behaved; I never hear of any robberies; cattle-stealing is unknown in the district. I do not think a house in the district has got a lock to it; I go away from my hut for a week or a month together, and I have not a lock to it.

42. Within the boundaries of your district is there much land which you think cannot be run over by sheep or cattle—very scrubby or stony land?—There is much unavailable for pastoral purposes, I should say one-third on the Clarence; on the Richmond it is nearly all available.

43. When you estimate these runs, you do not throw out this land which is really of little value?—It is impossible to do that: it would require a more accurate survey.

44. In your district, taking the average of seasons, how many acres do you think would be required to feed a sheep?—As to the future I cannot speak, because the country is undergoing a rapid change; but looking to the past, I should say about eight acres, including good and bad. At some seasons, in travelling through the district, you would scarcely see a head of stock, the grass growing up to their heads, and at another you would wonder what they could subsist upon.

45. Is the grass consumed by the stock?—No; it grows very rank, but after a fortnight's dry weather it is completely burnt off.

46. Exclusive of the rich land you have spoken of within 30 miles from the sea, is there any good land which would be open for the occupation of the squatter?—Yes, plenty on the banks of the river lower down; but there is not much fresh water, and therefore it has not been taken up for grazing purposes.

47. Would it do for cattle stations?—It might.

48. Is it good cultivation land?—It will grow wheat, but it is not good; I have seen the weevil in it before it has been taken off the land.

49. It is more of a maize country?—Yes, it is as fine a maize country as any in the world; coffee, I think, might be grown there; cotton and rice in the swamps.

50. Do you think this land may be disposed of by the Government at the present minimum price of 1*l.* an acre?—Yes.

51. And what you could not sell for that you would not sell at all?—I would not; land for agricultural purposes, and in the neighbourhood of towns, would sell, but pastoral lands would not.

52. You think the system of leases under these Land Orders is the best that could be devised for the occupation of these lands?—I do; I believe that if land were bought for pastoral purposes it would eventually ruin the purchaser.

53. (*By Mr. Suttor.*) Are you acquainted with any other squatting district of the Colony besides the Clarence River?—Yes, I was Sub-Commissioner in the Liverpool Plains district.

54. Do you think any land in pastoral districts would sell for 5*s.* an acre?—It is impossible to

NEW SOUTH WALES.

O. Fry, Esq.

August 16, 1847.

calculate upon the amount of folly that may exist in the community; some might be sold, but I am sure it would not pay.

55. (*By Mr. Lamb.*) Do you not think individuals might be allowed to exercise their judgment upon the subject without the interference of the Government?—I think, to a certain extent, it is the business of the Government to prevent people ruining themselves; I would not have private enterprise interfered with by Government, but they should not hold out inducement to persons to ruin themselves.

56. You have two shipping ports, or rivers, into which vessels go in your district?—There is only one available—the Clarence.

57. How far have the parties at the nearest squatting station to bring their grain or wool to the shipping port?—I have already stated that the settlement is surrounded by squatters.

58. How far is* from the port?—One hundred and thirty miles.

59. Are the roads existing there available?—Yes, excepting in cases of flood.

60. Upon the squatting stations, generally, do the occupiers cultivate, or do they purchase their wheat?—In our district we can get wheat so cheaply from Sydney that very few cultivate.

61. Do any of the small squatters grow their wheat?—Yes, some do, merely for their own consumption, but a great many do not, because the wheat in that district is so liable to weevil; I have seen the weevil in the grain before it has been taken off the field.

62. Even where the land is elevated?—The elevation is so inconsiderable that it does not affect it.

Monday, August 16, 1847.

Mr. S. Lyons.

August 16, 1847.

Mr. *Samuel Lyons* called in and examined:—

1. You are an auctioneer, carrying on a large business in Sydney?—Yes, since 1825.

2. You have sold a great deal of land at various times?—I have.

3. What is your opinion of the value of land in this colony?—That is a very difficult question to answer. Of course the value chiefly depends upon its position, and the nature of the land which that to be sold adjoins.

4. Could you make any classification of the lands of the colony, and tell the Committee the value of them, according to such classification?—There are scarcely any purchasers now to be obtained for land, excepting among parties who have already possession of landed property, and who are desirous of purchasing that land adjacent to their own, in order to keep troublesome neighbours away. Land cannot be sold unless it be peculiarly situated, and command back runs.

5. Is not land as saleable as any other description of country property—is it not as much so as sheep or cattle?—There is plenty of land now for sale, but the market is dull.

6. How do you account for that?—I attribute it, in a great measure, to the want of immigration. There are not persons of capital coming into the colony to purchase, and we have not sufficient buyers within ourselves.

7. There is no available capital?—Yes, there is plenty of capital, but parties do not like to invest it in that way.

8. (*By Mr. Cowper.*) There is an indisposition to invest money in this kind of property from the want of labour?—Yes, from the high price of labour.

9. Have you made any sales of land in the last year or two?—I have made sales of land very recently in Saint Vincent's, at from 2*s.* to 4*s.* 3*d.* an acre.

10. What sort of land was that?—I cannot say.

11. (*By the Chairman.*) You have, I believe, sold a great many squatting stations?—I have.

12. Has the value of those stations increased or decreased lately?—Decreased.

13. Have you sold any since the promulgation of these new Land Orders, or since it was known that something of the kind would be sent out to this colony?—I have not sold any; but I do not think these new regulations will have much effect upon the price, in consequence of the want of labour and of the immigration of capitalists. I have now for sale a very valuable sheep and cattle station, situated somewhere up the Hunter, and I have not had a single offer made to me for it. With reference to the value of land, I may state that I have advertised for sale a large quantity belonging to myself and Mr. Smart; and I would readily take 3*s.* an acre for 10,000 acres in the county of Macquarrie.

14. Is there any improvement upon it?—No; it has all been purchased from the Crown. There is also land in the county of Cumberland which I am willing to sell at 4*s.* an acre.

15. In what part of the county is that?—In the parish of Bulgo. It has a frontage to the Pacific, and contains about 200 acres. The land in the county of Macquarrie I would sell at 3*s.* an acre, and give two years' credit.

16. Do you know what sort of land it is?—It is in a state of nature.

17. Has it ever been occupied by sheep?—I do not think it has.

18. I presume, then, that you are of opinion that the land of this colony is not worth 1*l.* an acre?—I think no land in the colony is worth it, with the exception of the agricultural lands, and they are not unless they have been cleared.

19. Will you state your opinion as to what has been the effect of raising the minimum upset price of land from 5*s.* to 12*s.*, and from 12*s.* to 1*l.* per acre?—I think it has entirely precluded the possibility of selling any but small portions, for particular purposes. I think it has been most injurious to the colony, because people will never come to New South Wales to give 1*l.* an acre for land.

20. If they do not come, or if the land be not purchased, do you see any means of obtaining labour?—No. I think the present price is most injurious to the colony, and most unwise; the land is not now sold at all, but if a low minimum price were put upon it, and it were put up for sale, it would fetch what it is worth.

21. What price would you recommend the Government to fix?—That would depend upon the situation of the land.

22. Perhaps you would not have any minimum price?—It would not be above 1*s.* or 1*s.* 6*d.* an acre for pastoral lands. Supposing it to be good agricultural land, easy of access, and not too great a

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distance from market, it would, of course, be of greater value. I do not, however, see what value could be put upon land 300 miles from market; but, in all instances, I should consider that the present occupant ought to be entitled to pre-emption at a very moderate price, to be fixed according to the position and value of the run.

23. At what price are sheep selling now without a station—good sound sheep?—That depends upon the quality of the sheep.

24. A fair average?—About 5*s.* or 5*s.* 6*d.* per head.

25. What would be their value with a station?—The station would make a difference of from 1*s.* to 1*s.* 6*d.* per head.

26. You are not speaking of the additional value of the stations since the new Orders were promulgated?—No; I am not aware that the new Orders have made any difference at present.

27. What is the price of average cattle at present—mixed herds?—That depends upon where they are situated. The opinions given as to the price of cattle are more guess-work than anything else, as they vary so much; they are worth from 17*s.* 6*d.* to 1*l.* per head, with stations.

28. What additional value would the station give per head to cattle?—I think it makes fully 4*s.* per head difference, as the difficulty of removing cattle is considerably greater than removing sheep, cattle being apt to stray back to the former run.

29. (*By Mr. Suttor.*) I presume you are not much acquainted with what is the description of land in the squatting districts generally?—I am not.

30. Is it your opinion that if the minimum upset price of land were reduced from 1*l.* to 5*s.* that much would be sold?—I should say certainly not; there might be small portions purchased at that price. I should put up squatting stations at much less than 5*s.*

31. Still you think some would be sold at that price:—I think certain portions of stations might.

32. (*By Mr. Faithfull.*) You think land would fetch its value if put up at any price?—I do.

33. If it were put up at 1*s.* an acre and were worth 20*s.*, it would fetch 20*s.*?—Yes; there is always great competition at Government sales.

34. You would not fear losing anything by putting it up at a low price?—No.

35. (*By Mr. Icely.*) If land were put up at a very low rate would it not lead to jobbing?—No doubt attempts of that kind would be made.

36. If the price of 1*l.* an acre be maintained?—There can be no fear of jobbing at that price.

37. You think there will not be much sold at that price?—I think no man, unless he is fit for Tarban Creek, will buy.

38. (*By the Chairman.*) You think it will not be sold unless there be another land mania?—No; and I have no wish to see a return of that.

39. Do you think that is cured?—I think so.

40. (*By Mr. Icely.*) I think you have said that there is no chance of raising an immigration fund while the minimum price of 20*s.* an acre is maintained?—I think there is no chance.

41. (*By Mr. Lamb.*) If the price of land were reduced to the old minimum price of 5*s.* an acre, and the land were put up to auction, do you think there would be any extensive speculation in it?—I do not.

42. Supposing it were reduced to 2*s.* an acre, and were still open to competition, do you think there would then be purchasers?—I do not think there would.

43. From what you know, do you think there would be much danger of people ruining themselves under a land mania?—I do not think so.

44. You think people might be left to exercise their own judgment in purchasing land, as well as in purchasing anything else?—Yes; I think there is not the facility in obtaining assistance from the Banks which there was formerly; and that, therefore, people could not involve themselves to the same extent.

45. The lands to which you have referred, as being for sale, are not in large blocks, but in various pieces, scattered over large districts; do you not think the 10,000 acres you have spoken of would be more valuable if they were in one block?—No doubt.

46. You have no personal knowledge of the Port Phillip District?—No.

47. As a fact, is there any extent of land offered for sale in this market which is situated in the Port Phillip District?—I am not aware that there is any.

48. Your remarks as to the value of land have no reference to lands in Port Phillip?—They have not.

49. With respect to cattle and sheep which are placed in your hands, from time to time, for sale, do you think the price is kept down by the difficulty, if not impossibility of the purchasers finding squatting stations on which to depasture them?—Certainly they are of no use if there is no station for them; but I am not aware that there is any difficulty in getting stations.

50. You mean by purchase?—Yes, or by seeking for them.

51. With respect to capital, there is a great deal unemployed in the colony at this moment?—Yes, there is a great deal of capital unemployed in the colony, but the holders will not invest it in sheep, cattle, or land, unless it be land in Sydney, with a good house upon it.

52. If the price of 1*l.* an acre be maintained, will not the present possessors of land in the squatting districts have as beneficial an occupation as if they had the fee simple?—I should say nearly so. I do not think it possible that the land could ever be sold at 1*l.* an acre, unless it were in very small portions.

NEW SOUTH WALES.

Tuesday, August 17, 1847.

Present:—

Robert Lowe, Esq., in the Chair.

George Allen, Esq.,	John F. L. Foster, Esq.,
Charles Cowper, Esq.,	John Lamb, Esq.,
William Pitt Faithfull, Esq.,	William Henry Suttor, Esq.

Mr. T. S. Mort.

August 17, 1847.

Mr. *Thomas Sutcliffe Mort* called in and examined.

1. You are an auctioneer in a large way of business in Sydney?—I am.

2. Will you state to the Committee your opinion of the value of land?—I consider lands generally as very unsaleable at present, and their value consequently nominal.

3. Country lands?—All lands with the exception of those immediately within the city, or in the neighbourhood of the city.

4. To what do you attribute that?—Principally to the want of labour, and the want of good communication with the interior. I look upon the two great wants of the country to be labour, and the better means of communication with the interior.

5. I presume that these country lands will not sell for 1*l.* an acre?—Certainly not.

6. What will good alluvial land, naturally cleared and fit for cultivation, sell for?—I do not think that lands to any extent could be sold at all at present, unless at a very low price.

7. Even the good quality—rich alluvial land?—I consider that in the present dead state of things you could scarcely induce a man to purchase land extensively, without he saw some strong probability of labour coming out.

8. You are of opinion then, I gather, that the minimum upset price of 1*l.* an acre is too high?—It is utterly ridiculous.

9. What would you recommend as a minimum price for Government to put it up at?—I have only one opinion upon the subject, and that is, that there should be no upset price at all; the price it will fetch at auction will always be found the fair value; provided that too large a quantity of land is not thrown into the market at one time.

10. Then you would not care what the minimum price was?—No. The competition would regulate the price.

11. So long as the Government had the power of withholding the land they would have the power of regulating the price without any minimum price?—Clearly so. I should state generally that there is not the slightest necessity for any minimum price to be placed upon land, provided the Government are judicious in the quantity brought into the market at a time; and provided also, that the land thus put up be put up at the solicitation of individuals interested.

12. Have you any observations to offer with respect to the effects of the minimum price?—I consider it exceedingly unfortunate that the British Government should persist in keeping up the price of land, as the restriction is undoubtedly detrimental in all respects to the advancement of the Colony.

13. You say there is no chance of obtaining a sufficient supply of labour?—Certainly not, from the sale of land at its present upset price.

14. From any other sources?—I think it might readily be obtained from the Land Revenue, if aided by a general tax on the labour of the colony.

15. Are you of opinion that a loan could be obtained on the security of the land if it were to be sold at 1*l.* an acre?—I imagine not, unless the faith of the British Government were also pledged. I imagine that no one would take the lands of this colony at 1*l.* an acre as security for a loan, although I am of opinion that the loan itself would, by giving us labour, be the very means of creating sales, as well as of advancing the price of land.

16. With regard to the value of stock, what would sheep fetch now at auction, without a station—average sheep?—A mixed flock of sheep, sound, and never diseased—because that is the only standard we can go upon—of average quality as to the description of fleece and carcass, would fetch at the present moment from 5*s.* to 6*s.* per head, without runs; but sheep of very superior quality, of favourite breeds, are worth from 6*d.* to 1*s.* per head more.

17. If the stations are given in—say an average station, not the very best—what would the sheep fetch then?—I have some difficulty in answering the question in the form you have put it to me, as the additional rate per head, which the sheep fetch with the station, depends entirely upon the number of sheep sold with the station, upon the capability of the run, and whether it is fully stocked or not.

18. Suppose a fair run, fully stocked, can you say what increased value that would give?—About 1*s.* per head.

19. The run is about one-fifth part of the value of the sheep?—It would be so in that case.

20. Are sheep saleable at all without runs?—I have already stated what they are worth; but they are difficult to sell without runs. I sold good sheep, mixed sexes, the other day, without runs, at 5*s.* 4*d.* per head, but that price could not be obtained if any quantity were thrown into the market.

21. You could not feel certain of obtaining that price?—I could not get so high a price if sold for cash.

22. With regard to the value of runs, has any change taken place in the value of lands lately?—I do not think there has been any alteration in their value.

23. Have you sold runs since the promulgation of the Land Orders?—I have sold several with stock upon them.

24. Did you remark any change?—I did not. I consider that parties have been so long anticipating these Orders that they have given the additional value (if any) in anticipation.

25. Do you think the state of the labour market has anything to do with the prices at which this description of property is sold?—Most unquestionably it has. Everything depends upon it; my own impressions as to the prospects of the colony are rather gloomy at this present time, owing to my experience of the want of labour; it is to my mind the only cause, however, which we have to fear.

26. What do you anticipate if we do not get labour?—I consider that the price of stock will be very considerably injured, and that, as a natural consequence, all other descriptions of property will follow in the depreciation.

27. With regard to the value of cattle, what is the average value of cattle without stations?—The quoted value of a mixed herd of cattle, without a station, is 15*s.* per head; but it would be difficult to effect a sale at that price, unless the cattle were very superior.

28. Is it not difficult to remove cattle from one station to another?—Yes, because they have to be herded until accustomed to the run; and cattle are difficult of sale without a run.

29. What extra value would a station give to them?—I should say the additional value that would be given to cattle by a station would vary from 1*s.* to 10*s.* per head, according to the quality of the run, its improvements, locality, and the number of stock it would carry, over what was sold with it; the additional average value is, however, about 3*s.* per head.

30. Have you considered the new Land Orders?—I have read them, and I consider them very equitable in their operation generally; the classification of some of the lands is, however, questionable.

31. Do you mean equitable to the colony generally?—Yes.

32. (*By Mr. Cowper.*) In what does their equity consist?—The settler has to pay in proportion to the sheep or cattle that his run will carry, and I do not think he can pay much more than he is called upon to do by these regulations; and the whole of the located lands of the colony will, under these regulations, be producing rent, whether stocked or not.

33. What do you think of the policy of tying up the lands of the colony in this way?—I think if the price of 1*l.* an acre is to be maintained it has its objections; but I live in hope that this ridiculous regulation will be done away with.

34. Do you not think it is to the interest of the holders of the leases under these new Orders to oppose any reduction in the price of land?—I think it is quite possible that such may be the effect, but the voice of the colony has so loudly proclaimed the necessity of the reduction that I think the people cannot go back from what they have so often and publicly insisted upon.

35. Are you not aware that in many instances they have already done so?—I certainly have heard of persons who held an opposite opinion, but who have yielded to the arguments which have been urged in favour of a reduction.

36. (*By Mr. Lamb.*) You consider that the Act of Parliament must be repealed, which fixes the minimum price of land in this colony at 1*l.* an acre. If the price should be brought down to 1*s.* do you not think these leases would be injurious, as tying up lands which, at the reduced price, might be bought?—I am quite clear that an objection may be taken to the adoption of these leases; but, at the same time, I consider that, upon the whole, they are so equitable that no objection of this kind should be allowed to outweigh them, the more especially as I am satisfied that no settler can afford to buy land in any quantity for pastoral purposes, however low the upset price may be.

37. (*By Mr. Foster.*) Do you think sufficient land has been reserved, in the settled districts, for all the purposes of sale?—I consider that, under these regulations, as much land will be open for sale as parties will wish for or capital found to buy.

38. You say that a run increases the value of the sheep upon it 1*s.* per head?—Yes.

39. How much land do you calculate is, on an average, required to feed a sheep?—Three acres.

40. That will give 4*d.* per acre for grazing purposes?—Yes; but from that price must be deducted, at least, 1*d.* per acre for cost of improvements; my quotations having been given on the presumption that the runs were settled ones.

Tuesday, August 17, 1847.

Lewis Samuel, Esq., J. P., called in and examined:—

1. You are a proprietor of stock beyond the boundaries in the Wellington district?—Yes, in connexion with my brother.

2. Have you formed any opinion with regard to the price of Crown lands—what do you think the price ought to be?—It is rather a difficult matter to say what it ought to be.

3. Do you think the present price of 1*l.* an acre is a proper price?—I should say not.

4. What is your objection to it?—I do not think there is any land in the interior worth that money.

5. Do you think the raising the minimum price of land to 1*l.* an acre, has had any bad effect upon the interests of the colony?—No doubt of it.

6. In what respect has it been injurious?—There has not been the inducement to capitalists to emigrate to this colony that there would have been if the price had been lower.

7. Parties do not like to invest their capital in land?—Not at that price.

8. Has it had any other bad effect; has it had any effect upon the land fund?—There cannot be a doubt that there has not been the amount paid into the Colonial Treasury that there would have been if the price of land had been lower.

9. At what price do you think land should be put up?—If land were put up at a merely nominal price it would fetch its value; if it were worth 1*l.* per acre it would bring it.

10. You would say that it is immaterial how low the price if the land were submitted to public competition?—Yes; if parties were desirous of purchasing, it would realize its value, whatever that might be.

11. Provided too much land were not thrown into the market at once?—Yes.

12. Have you read the new Land Orders?—I have just glanced over them.

13. What is your opinion of them; do you think them beneficial or otherwise?—I should say, in a measure, they will be beneficial to some parties.

14. I suppose you consider that it will be beneficial to parties to obtain leases?—I think it will be an inducement to parties to improve their stations to a greater extent than they have hitherto done.

15. What improvements do you think they will be induced to make?—To put up good buildings; comfortable dwellings for themselves and servants.

NEW SOUTH WALES.

L. Samuel, Esq.; J.P.

August 17, 1847.

16. Do you think they will be induced to do this under a 14 years' lease?—I think so.

17. You do not think they will buy the land?—Not at 1*l.* an acre.

18. Besides erecting substantial buildings, will they, in other respects, improve the land?—To a certain extent they will, by cultivating the land to supply their establishments with wheat, &c.

19. Do you see any other benefit that is likely to result from this measure?—I can give very little information upon the subject, as I reside in Sydney; my brother manages the station, and is generally in the interior.

20. (*By Mr. Lamb.*) You have a station called Euromedha?—Yes.

21. What quantity of land does it require to keep a sheep in ordinary seasons?—I believe it is calculated that three acres are required to keep a sheep, but I am not sufficiently acquainted with the matter to give an opinion upon it.

22. At the time you took Euromedha there were about 10,000 sheep upon it?—About 10,000.

23. How many are there now upon it?—That station would not support above 10,000; we have altogether about 13,000 or 14,000 sheep, but a portion of them are on a new run.

24. You do not know the extent of the run?—I do not, but I believe a return has been made to Government which would give that information.

25. (*By Mr. Faithfull.*) Are you well acquainted with the value of land in the county of Cumberland?—It is impossible to fix any value upon it; I have a quantity which I should be glad to sell at one-third the present minimum price.

26. Is that good grazing land?—No; it is within 14 miles of Sydney.

27. In which direction?—It is on the banks of the George river.

28. Is it well timbered?—No; the timber is now pretty well taken away, and has been for some years past.

29. (*By Mr. Suttor.*) Do you think if the price of land were reduced to 5*s.* an acre, many squatters in the Wellington district would purchase their stations?—No, I do not think they could do so.

30. If the present rate of labour were reduced, might not parties purchase the land?—Some might purchase a small portion, if at a very low rate.

31. Labour would give a value to the land?—No doubt.

Tuesday, August 17, 1847.

E. Cornish, Esq.

August 17, 1847.

Edward Cornish, Esq., called in and examined:—

1. In what part of the colony do you reside?—In Wellington Valley, district of Bligh.

2. Are you conversant with pastoral pursuits?—Yes.

3. Have you formed any opinion with regard to the minimum price of Crown lands?—No decided opinion; I have not thought much upon the subject.

4. Do you think the lands of this colony generally are worth 1*l.* an acre?—I think not; the generality of the lands of the colony could scarcely be fixed at a sufficiently low minimum price; they are merely adapted for pastoral purposes.

5. You would recommend then a reduction of the upset price to an almost nominal sum, leaving it to be decided by auction?—I would leave the price to be decided by public competition, that is, if it be considered proper to sell the land at all.

6. Do you or do you not think that would be proper?—Certainly, to an extent sufficient to supply the requirements of the population, but at present there is no demand for land, and you could not get purchasers for lands beyond the boundaries, or for lands only fit for pastoral purposes.

7. To what do you attribute that?—Partly to the limited population of the colony, and partly to the quality of the lands, and there not being sufficient labour in the market to render an investment in land profitable.

8. Have you read the recent Orders in Council?—Yes.

9. What is your opinion of them?—My opinion of them is, that they will be beneficial to the colony at large, by increasing its capabilities as a wool-growing country; they will give the squatter confidence in the security of his tenure, and will induce him to erect buildings and make other improvements upon his station.

10. Do you think he would erect buildings under a 14 years' lease?—Yes, with the additional privileges granted by these Orders.

11. Do you think he has not confidence under the present system?—Not so much as he will have under these new regulations.

12. What gives him increased confidence in the new system?—The guarantee that Government will not disturb him for 14 years, and that he will be allowed the value of his improvements, if he is compelled to cede possession.

13. Had he not before, practically, a guarantee that he would not be disturbed till the lands were required for sale?—Not while the Government had the unlimited power to make new regulations, or to reduce the upset price of land, and while he did not know but that the price of land would be reduced, and that the land would be sold without allowing compensation for improvements.

14. Then these regulations render the squatter independent of the reduction of the price of land—do you think that an advantage to the colony at large?—In a modified sense he would be independent, that is so long as wool remains the staple production of the colony, which I do think would be an advantage to the colony at large, as at present I do not consider that the colony is in so advanced a state as to render it desirable that the land beyond the boundaries should be sold. The value of the land is very small, and if it were put up for sale at public auction the price that it would command would be very trifling; in fact I think that the licence fee of 10*l.* is as much as a squatter can pay for a run which will only feed 4000 sheep.

15. You think 10*l.* is a sufficient rent for the use of 20,000 acres of land?—Yes, of land that requires five acres to feed a sheep.

16. Do you see any period at which it is probable a squatter will relinquish his lease—will he ever be called upon to give it up, or will his ownership be equivalent to a freehold?—I do not at all see that a lease involves a freehold.

17. What period would you fix at which the occupation of the squatter should terminate?—When there is a sufficient population in the colony to require the land for agricultural purposes.

18. Do you apprehend that under this system any fund will be raised for immigration?—I have not made any calculation on the subject, nor do I see the necessary or exclusive connexion between a fund for immigration and the Land Orders.

19. You have not calculated what these leases will yield?—No.

20. Supposing these leases were to yield 30,000*l.* a year, do you think that would be a sufficient revenue to supply us with labour?—No, I do not think it would.

21. Would 40,000*l.*?—No, scarcely.

22. Supposing we have no supply of labour, do you see any advantage in this fixity of tenure—do you think these runs would be of any use unless we get a sufficient supply of labour?—These are difficult questions to answer shortly.

23. (*By Mr. Lamb.*) You reside in the Wellington district?—In the district beyond Wellington.

24. You say you require five acres to feed a sheep in that district?—I think three acres is the general calculation, but I feel convinced that averaging the back runs with the river frontage, scrubs with plains, it will take more than five acres in our district; in fact there are large tracts of back country (thousands of acres) not fit to feed a bandicoot.

25. You have stated that you would require 20,000 acres to feed 4000 sheep?—I think five acres for each sheep would be required; there is much unavailable land there; it is only just near the river that the land is good.

26. (*By Mr. Faithfull.*) Do you think your land fees would bring you out as much labour as you require?—I have already stated that I have not made any calculation on the subject.

27. Would they bring you out half as much, or a quarter as much?—I do not know that they would.

28. In what way then do you propose to get labour?—I have not sufficient confidence in my own judgment to make a proposition.

29. (*By Mr. Suttor.*) Do you think the land throughout the colony would produce the minimum upset price of 5*s.*?—No.

30. Were you ever at Port Phillip?—No.

31. Do you think any land on Darling Downs would fetch 5*s.* an acre?—No, unless the party had a guarantee from the Government that if he purchased a certain quantity it should command an additional run, or unless there were other circumstances creating an unnatural value.

32. You are aware that in former years parties have purchased at that price?—Yes, within the boundaries.

33. Is the land that has been so purchased better than a great deal beyond the boundaries?—It is, and nearer a market for produce, and better adapted for agricultural purposes.

34. (*By Mr. Foster.*) Would the rents derived from these leases be the only source of a land-fund; suppose the price of land, in the intermediate districts, were reduced to 5*s.* an acre?—I do not think parties would buy land extensively at 5*s.*, unless they had additional advantages.

35. And you do not consider that the squatter could afford to pay a higher rent than at present?—I do not.

36. (*By Mr. Suttor.*) Do you know any settler in your part of the country who would throw up the land he has bought of the Government at 5*s.* an acre?—Within the boundaries?

37. Within the boundaries, in the Bathurst and Wellington districts?—No, because he has purchased the very best of the country, well adapted for agricultural purposes; and, in many instances, he has erected buildings and made other improvements; although I believe much land has changed hands within the last four years, both privately and at auction, or has been taken in satisfaction of mortgage and other debts, at less than 5*s.* an acre.

38. Could not the squatter do the same thing; might not he purchase the best parts of his run?—Yes; but what could he do with his grain?

39. Do the settlers depend upon the growing of grain?—A great many settlers within the boundaries do; and those who do not have the use of large tracts of adjacent Government land, for pastoral purposes, free of either licence or assessment.

40. In the interior?—Yes; about Bathurst, and generally within the boundaries.

41. Do you not think it would be a very good thing for the squatters if they were to have fixity of tenure, and land within the boundaries were sold at 5*s.* an acre?—I do not think that it would be fair to the rest of the colony if the squatters were to have fixity of tenure, without paying a fair but moderate licence, or rent charge.

42. (*By Mr. Lamb.*) Then you would keep up the price of land to prevent its being sold?—No, I think all the best of the available land is sold, and that a great portion of the remaining land would not command 5*s.* I think too that the settler within the boundaries ought to have some privileges over the adjoining Government land, in consideration of the land he has purchased.

43. (*By the Chairman.*) Then while you were considering the interest of each class in this way, the colony would be ruined; if the rents of the squatters are not sufficient, and the lands within the boundaries are not to be sold, because that will deprive settlers of their back runs, how is labour to be obtained?—I do not see how it is to be obtained, unless from the general resources of the colony, aided by assistance from the British Government.

44. (*By Mr. Suttor.*) Do you think any harm could be done by trying the system of selling land a 5*s.* an acre?—Do you mean outside the boundaries?

45. Anywhere?—I do not think it is worth that for pastoral purposes, although small selections may be worth more for agricultural purposes, within reasonable distance of a market for produce.

46. You do not think if land were put up at 5*s.* an acre, squatters would be in danger of losing their runs?—No, I do not think there is any fear of that, unless the purchases were made for the sake of annoyance.

47. (*By the Chairman.*) Upon what part of the Boyne have you been residing?—I have not been residing there, but have just returned from forming a new station at the Boyne, on the extreme boundary of the colony, or in North Australia.

48. Near Wide Bay?—Within one hundred miles of that.

49. What is the nature of the country there?—It is generally good, well adapted for the growth of wool.

50. Is it a high or low country?—High, or moderately so.

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51. Is there a tract of country there where persons could find stations?—Yes.

52. Do you not, as a practical grazier, consider that the climate there is too hot for the growth of wool?—No.

53. How would you propose to get the wool down to the sea?—By the road from station to station, or search till I find a more direct track.

54. Is there a road to Wide Bay?—I am not aware. I am told there is a store building there, and doubtless we shall find a road to it.

55. (*By Mr. Foster.*) If any alteration were to be made in the price of land, and your station were sold, would you consider yourself entitled to compensation?—I should say so, for the great trouble and expense I have been at in forming my station. For this purpose I have been compelled to ride through the bush about 2,000 miles within the last four months.

56. (*By the Chairman.*) Do you not look to your profits for compensation?—No; if my station were put up for sale at a public auction, a stranger would have the same right to buy it as I would, notwithstanding I have had all the trouble and expense of discovering and forming it.

57. Are you not aware that every squatting station that has been taken up is liable to the same thing?—No, so long as British legislation is based upon the principles of justice; and I consider that there is enough of new country for the requirements of sheep farming for the next ten years; the forming of new stations is attended with immense expense, as well as trouble.

58. (*By Mr. Foster.*) It is proposed by these regulations to hold out an inducement to parties to enter into sheep farming.—Is it?

59. (*By the Chairman.*) Do you think Government ought to interfere, or to hold out inducements to parties to enter into any particular branch of industry more than another?—Government should offer such inducements, or, at least, immunity from impolitic restrictions, as would tend to promote the occupation and use of the waste lands of the colony, in the manner most beneficial for the general interests of the colonists; and I consider that the Government would so consult the general interests of the colony by offering some inducement to parties to penetrate the unknown interior, as the danger, trouble, expense, and risk of forming new stations is immense.

60. Upon the same principle, would it not be a wise regulation for Government to give a premium for fitting up ships for whaling—is that considered an enlightened policy for a Government to adopt?—Certainly not; but I see no parallel between the two cases.

Tuesday, August 17, 1847.

W. Ogilvie, Esq.

August 17, 1847.

William Ogilvie, Esq., called in and examined.

1. You reside upon the Hunter?—I do, at Merton.

2. And are largely interested in stock both within and beyond the boundaries?—Yes.

3. What is your opinion of the effect of raising the minimum upset price of land from 12*s.* to 1*l.* an acre?—That it has put an entire stop to the sale of land, and has been very injurious to the colony. There has been land sold near townships, but for general purposes it has put an entire stop to the sale of land.

4. In what respects do you consider that it has been injurious to the colony?—By preventing the arrival of emigrants, including persons with capital. The land is notoriously not worth 1*l.* an acre, for general purposes; there may be spots worth a great deal more, but they form exceptions to the rule.

5. What system would you recommend for the adoption of Government?—I would suggest the lowering of the price.

6. To what amount?—That is a difficult question to answer. I must premise that the lands of the colony, with certain exceptions, are only fit for grazing purposes; we have no navigable rivers, and we have no means of bringing produce, of a less valuable description than stock, to market. Unless some valuable discoveries are made in science, of which however we know nothing at present, the lands will only be available for pastoral purposes, and for these purposes the land is not worth 1*s.* per acre. Of course there are lands near the coast, and on the banks of navigable rivers, that form exceptions to that rule.

7. Are you acquainted with the whole of the colony, or with what parts are you particularly conversant?—I have stations beyond the boundaries, in the Clarence River, and Liverpool Plains districts.

8. What is your opinion of the Clarence River country—is that fit for a large population?—A portion of it.

9. Liverpool Plains, I presume, is not?—No; it is too far from an available market.

10. What plan would you recommend to be adopted with reference to the price of land—if the price is too high, to what extent, and in what manner, would you say it should be lowered?—If it is intended to be sold for pastoral purposes, land is not worth 1*s.* an acre. In proof of this I have formed a rough calculation which is based on my own experience.—I have taken 10,000 sheep as the ground of my calculation, because that number can be more profitably managed than any other, and can be properly superintended by one person.—10,000 sheep would require 30,000 acres of land. I would estimate the cost of 10,000 sheep—my calculation being formed upon good sheep—at 5*s.* a head, that would be 2,500*l.* 30,000 acres of land, at 1*s.*, would cost 1,500. To make a station properly, the unavoidable expenses would not be less than 800*l.*; my own has cost considerably more. The total expense would thus be 4,800*l.* With the present charges on sheep, they will not yield more than 1*s.* 6*d.* per head.

11. (*By Mr. Foster.*) With their increase?—With their increase; so that 10,000 sheep would only produce 750*l.* a year, and that is very little more than 15 per cent. for the outlay. I have made this calculation from my own experience of a well-managed station in a favourable position, and my belief is, that the average of stations in the colony would not yield so much. I think, therefore, if lands are put up at 5*s.* an acre, no large quantity in the interior will be sold—no one can afford to pay it. Such lands as are available for other purposes would fetch their value at whatever price they were put up, and therefore a low minimum price is desirable, as by putting a high price you shut out all lands whatever from sale, because it is known in England that lands are not worth the price, and therefore parties will not come here to pay it. If, however, they were put up at 5*s.*, no doubt people would come out, even though the land were not worth it; because it is a principle in human nature,

at all events in civilized human nature, to desire the possession of land, and that feeling induces people to give more for it than it is actually worth, on many occasions. I know that I have bought a great deal of land at a higher price than it is worth; I consider it as so much money sunk, from which I shall never get a return. If land were put up at 5*s.* an acre, I therefore think it would induce capitalists to come out and invest their capital here.

12. (*By the Chairman.*) I presume their coming would communicate value to land which at present is almost valueless?—Yes.

13. Then, upon the whole, you think it would be desirable to have a minimum price of 5*s.* an acre, and sale by auction?—Yes, 5*s.*, or less.

14. But you think large tracts of country would not be sold at 5*s.* an acre?—No; all persons who bought largely of land have injured their circumstances, and very many have been ruined by it.

15. Have you considered the new Orders in Council?—I have.

16. What is your opinion of them?—My opinion of them is, that they are as well adapted to the situation of the colony as they can well be.

17. Will you state in what respects?—I have already stated that the lands of the colony are only fit for grazing purposes, and that under the present regulations they give but a very moderate return for the capital employed in those pursuits; the new Land Orders give a degree of security which persons did not possess before. After the regulations issued by Sir George Gipps, the occupation of Crown lands beyond the boundaries was so insecure, that if things had remained in that state, no prudent man would have entered into pastoral pursuits, or would remain in them longer than he was compelled to do.

18. You think these regulations would be beneficial to the class they immediately refer to—what do you think would be their effect upon the rest of the community?—I think they would do them no injury, but rather benefit them.

19. In what respect?—They would tend to encourage the staple produce of the colony.

20. How would they encourage it?—By enabling persons to adopt these pursuits, and keeping those already in them from going out. Wool and live stock being the staples of the country, the grazing interest is therefore that upon which all other interests depend; if the breeding of stock be not profitable here, the colony must sink altogether; if the position of the proprietor of the stock be so insecure as to prevent his engaging in these pursuits safely, every interest in the colony must be affected.

21. Do you consider that the position of the proprietor of stock is rendered secure now?—I do, by having a lease.

22. Have you considered the effect of the 9th section of the 2nd chapter of the Land Orders—what effect has that upon the possession of the proprietor?—I do not think that affects his security.

23. Will you observe the latter end of the clause?—I do not think it injures our security, and it is only fair to the colony that whenever the lands are required for the settlement of the colony they should be open for sale.

24. Will you state what practical difference you see between the tenure under this section and that of Sir George Gipps, who said the Government must have the right to turn out the squatter whenever the land was needed?—At that time the land was only held from year to year; there was no right of pre-emption, or any security for the value of improvements; persons who were liable to be ousted at the end of a year could not, with any safety, make the improvements their business required; but the main grievance was, that he assumed the right to demand of the squatter any sum of money he chose to name.

25. Is not the effect of that clause that Government can, whenever it pleases, turn any gentleman out of his land, take all his improvements for nothing, and put up the land for sale during the period of the lease?—I apprehend that the land that can be taken for any of these purposes is so small, that so little is likely to be required, that the security of possession will not be affected.

26. Why do you say it will be so small?—The section says the land may be taken for the sites of churches, schools, or parsonages, for high roads or railways, and railway stations.

27. If you look a little further on you will see "or for any other purpose of public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the colony"?—I think in any case where it was required for the actual settlement of the colony, the land ought to be given up, but I am quite certain that most of those occupied as pastoral lands can never be required; certainly not in our day; they may a hundred years hence; at present there is no other purposes to which they can be applied than pastoral.

28. We will assume that the power is not exercised, do you think the vesting of that power in the Executive Government is desirable?—I do not think it desirable to place any unnecessary power in the hands of any Executive Government. The section is worded loosely, and might possibly be interpreted so as to have an injurious effect; I think some of the words have no very specific meaning; I do not understand the intent of the word "enjoyment," as there placed; but I do not think any Government would be likely to interfere vexatiously with a lessee under that clause.

29. You have spoken of the right of pre-emption, do you think under these regulations squatters will exercise that?—I think not to any great extent, as it could not pay. When lands were bought at 5*s.* an acre, purchasers bought something more than the actual land for which they paid. No man bought a section unless it commanded other sections, and convict labour was also bought with the land; and with respect to grants, no one considered a grant of much value unless it gave him command of a good back run.

30. Can you fix any period at which the tenure under these 14 years' leases can terminate?—No.

31. I suppose you consider that they will be held until the land is sold at 1*l.* an acre?—Yes; I think even if the land were brought down to 5*s.* an acre the present occupants would still have the ownership, or rather the occupancy, for a very long time.

32. An ownership that there is no reasonable probability of being terminated?—Not of the great bulk of the land.

33. Do you think, as a matter of sound policy, adverting to the enormous size of the territory, and the present small population, that the period has yet arrived to parcel out the country so as to exclude future comers?—No; but I do not think the way in which it is now parcelled out will deter others from coming, but that it will rather encourage them.

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34. Will you state how it will encourage them?—Because it will place those who are here in a better position, and offers the same advantage to all who desire to avail themselves of it.

35. With reference to the subject of immigration, how do you think we are to raise a fund under these regulations in the present state of the land?—I think if the price of land were lowered we should get a better fund than we have now.

36. From what part of the land?—From the intermediate or settled land; there is an immense tract now, more than can be occupied for 14 years, and after that the other land will be available.

37. Then you think if the price were reduced to 5*s*., that by the security of the settled and intermediate lands a sufficient fund might be raised for immigation purposes?—I will not say *sufficient*; I think we could give employment to any amount of labour; I do not think it would be possible to get the amount that might be required.

38. Supposing the price to remain as it is, do you see any means of obtaining labour?—There will be a land fund from this rental.

39. Supposing that reaches 40,000*l*., are you of opinion that that will be a sufficient sum for carrying on the present industrial pursuits of the colony?—I cannot say what may be the industrial pursuits of the colony; a great many have ceased from the want of labour. I used to cultivate about 200 acres of land, and have now given up the cultivation for want of labour.

40. Are you aware that the regulations prohibit cultivation?—They will not interfere with anything that is doing at present, except so far, that if the squatter raise more grain than he require, he will not be allowed to sell it to his neighbour.

41. Then the proper way to obtain labour would be to lower the price of land?—If we are to raise all the funds that is the only way, but we can never raise sufficient funds here for the purpose.

42. Do you think the granting of these leases will be a great obstacle in reducing the price of land—do you not think those persons who hold leases have an interest in keeping up the price of land?—I can say for myself, being a lessee, that I should not desire the price to be kept up.

43. You look to the labour question?—I look to the general welfare of the colony, and am of opinion, that what is good for one is good for the whole; and that what is best for the whole is best for the individual.

44. Then if the price of land be not lowered, and this system be carried into effect, what will be the effect upon the labour market—do you think pastoral pursuits can be carried on?—I think you cannot go on increasing the stock, it must be kept down.

45. You are aware that this Colony is about to be separated from Port Phillip?—Yes.

46. And that that separation will cut off some of the most available land in the country?—Yes; but I think the Port Phillip District absorbs as large a proportion of the labour as its land pays for.

47. What state do you think we should be in if the present prices were maintained, and the leases were granted?—No doubt we should be in great straits, and suffer great difficulty, unless some means can be found to obtain labour.

48. (*By Mr. Lamb.*) You have stations on the Clarence?—Yes.

49. Are there not large tracts of land in that district adapted for agricultural purposes?—Yes, on the navigable parts of the river.

50. If the minimum price were reduced to 5*s*., and that were put up to auction, would not a large portion be sold?—Yes, I should think a large portion.

51. According to the calculations you have made, you consider that 15 per cent. is yielded upon land in the interior, if bought at 1*s*. an acre?—Yes; that is based upon the experience of a good and well-managed station; but I believe the average is much under that.

52. If the land were put up at a minimum price of 1*s*., would a considerable portion be sold?—I think a good deal might be bought, but I do not know that it would be attended with advantage to the colony, as it would pass out of the hands of the present occupant to those of the speculator.

53. If the colony derived the advantage arising from the sale of the land, ought the interest of any particular class to be studied?—To a certain extent; it is always considered good policy to regard existing interests, and I think that those persons who have gone into the wilderness, and have exposed themselves to considerable privation and hardship, are entitled to consideration.

54. If the right of pre-emption is reserved to them, are they not sufficiently protected?—I think probably they are; I merely throw it out, whether it is not good policy to consider the interests of the squatter, and whether it would be well to throw open the land to the capitalist, who would buy it up, and then charge a rent to the occupier, higher than he could properly afford to pay.

55. As the value land is 1*s*. an acre, do you think any injustice would be done to the occupier if he paid a rent commensurate with that value?—I say that, generally, he could not afford to pay that price. My calculation went to shew, that land purchased at 1*s*. an acre to graze on, would not yield a fair return for the outlay, and to make it more obvious, in that calculation I rated the outlay for sheep, &c., very low, and made no allowance for risk and loss, or the grazier's personal labour and time.

56. If a rental fixed on that basis were to be established, and the receipts derived from it were to be applied to immigration purposes, do you not think pastoral pursuits generally would be benefited?—Pastoral pursuits would be benefitted by any system that would bring out immigrants; but I do not see the justice of making one class pay for that which is for the benefit of the whole; nor would the labour benefit the grazier if he were compelled to pay for it more than it was worth, or than he could afford to pay.

57. It is understood generally that labour is now greatly required in the interior, have you heard of any want of labour in the towns?—I cannot speak of Sydney, but in the country towns there is a great want of labour. I think it is a fallacy to suppose that the pastoral interest requires labour more than others, seeing that the labour employed in pastoral pursuits is only about one-eighth of the labour of the colony. I think there is as great a want of domestic servants as of any other.

58. Do you see any means of obtaining a supply of labour from any other source than from the lands of the colony?—Not from colonial resources.

59. (*By Mr. Allen.*) What do you estimate the rent per acre to be at the rent of 10*l*. for the run?—Assuming that it takes three acres to keep a sheep, it would be about one-fifth of a penny per acre.

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60. You state that you believe land to be worth 1*s.* an acre for pastoral purposes?—I say that is its utmost value under the most favourable circumstances.

61. The rent of that would be about one penny at 8 per cent.? It would be difficult to calculate by the acre; the runs are so different that you could only calculate by the number of stock a run would carry.

62. Could not a squatter afford to pay 1*d.* an acre rent for these lands?—I am sure he could not; there are so many contingencies in grazing pursuits that it would reduce his profits to almost nothing.

63. Still he could afford to give 1*s.* an acre?—I do not say that he could afford to give 1*s.* an acre; I say 1*s.* an acre is the largest sum that he could pay, to get any return, under the most favourable circumstances. According to the calculation which I have submitted to the Committee, the return would be only 15 per cent.; but there is a great deal of risk in sheep farming, and a great deal of personal inconvenience and privation, and unless it is paid for beyond more agreeable pursuits, people will not be induced to enter into it.

64. (*By Mr. Suttor.*) You have made a calculation of the profits of sheep farming, and are assured that the sheep farmer could not afford to pay 3*d.* per head for his sheep over and above his present expenses?—I am sure he could not.

65. (*By Mr. Cowper.*) I think you said it would not be fair to make one class of the community pay for an advantage that all share in?—Yes.

66. Do you not think that the squatters have enjoyed the benefit of immigration, which has been paid for by the purchasers of land?—I do; but the squatters, or a large portion of them, are also large purchasers of land. I think there is hardly a squatter who is not a landed proprietor and purchaser of land, and taking the whole quantity which was purchased by the individuals having stations beyond the boundaries, I think it will be found, that they have purchased more land than any other class.

67. Are there not many who are not so, especially in the Port Phillip district?—There are, I am given to understand, in the Port Phillip district.

68. Do you not think there would be more land sold, if the price was reduced to 5*s.*, than if it were kept up to 20*s.*?—No doubt. I think the raising of the minimum price to 20*s.* was one of the most injurious measures ever adopted for the colony.

69. Do you think persons would buy any portions of their runs at 5*s.* an acre?—No.

70. Not even for the purposes of immigration, or for the sake of securing their improvements?—They might to secure their improvements; if they had put up large buildings, they might be induced to buy the piece of ground upon which they were.

71. You are aware that by the new regulations, parties are entitled to a renewal of their lease at the end of fourteen years, unless one-fourth of their run has been sold—and that if any small portion has been sold, their rent may be raised. I refer to the 16th section of the 2nd chapter—is not the tendency of that section, rather to prevent the sale of land than to encourage it?—I can hardly see how it bears.

72. (*By Mr. Allen.*) You said some time ago, that you would require 30,000 acres to keep 10,000 sheep; if you gave 1*s.* an acre for that land, it would cost you 1,500*l.*?—Yes.

73. Suppose you bought your sheep for 2,500*l.*, and it cost you 800*l.* for forming your station, that would make 3,300*l.*?—Yes.

74. Suppose that instead of buying your land, you rented it at 1*d.* an acre, that would come to 125*l* a year rent?—Yes.

75. You say the sheep produce you 750*l.*, if you deduct 125*l.* from that, it would leave you 625*l.*—would not that give you a better interest for your money, than if you bought the land out and out?—Yes; but I would rather not do either the one or the other.

76. (*By the Chairman.*) Have you considered this question, with reference to the prospect of young men growing up in this Colony—is it fair to them that the lands should be alienated in this manner?—I do not think it unfair.

77. Will there not be a great difficulty in these persons finding employment, the great mass of the land being alienated, under the condition that no agriculture shall be carried on as a business upon them; where would you find a field for their employment?—These conditions are only to last fourteen years, and during that time you cannot employ the land to any other purpose; you would have to let the lands lie waste if they were not occupied in this way, and none can have a greater claim upon them than we have, because we have been at the trouble of discovering them, and of making them available; and I do not see either wisdom or justice in restraining persons, at present, from the use of these lands, lest some other persons might want them at some future time. I think, too, that there are as many stations available now as formerly, if the same pains were taken to discover them. I had a great deal of trouble to discover and obtain my stations, and equally good ones may be found now, by those who will take the same trouble.

78. Do you think stations could be found sufficiently near to the sea to be profitable?—Yes.

79. In what direction?—To the northward.

80. Almost within the tropics?—Yes; but the climate here is not so much affected by latitude as elevation; it is quite extraordinary the difference in temperature caused by a slight elevation in the interior of this country.

Tuesday, August 17th, 1847.

James Atkinson, Esq., called in and examined.

J. Atkinson, Esq.

August 17, 1847.

1. You are a large proprietor of land and stock in this colony?—Yes.

2. Have you any squatting stations?—Yes.

3. What is your opinion with regard to the minimum price of land?—That it is very much too high; that it acts entirely as a preventive to the purchase of land, either by the landed proprietor or by the squatter.

4. You are a proprietor of some fine lands at Port Phillip and Port Fairy?—Yes.

5. Are you of opinion that the minimum price of 1*l.* an acre is any protection to your interest?—No protection whatever.

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6. Will you state the grounds of that opinion?—It makes my land inoperative, as it prevents my having that supply of labour which I should have, if a labour fund were created by the sale of land.

7. Would you consider yourself entitled to urge any claim for compensation from the Government, as having been a purchaser under the former system, supposing they should reduce the price of land?—I think I should have a very strong claim.

8. Will you state how?—When I purchased my lands at 1*l.* an acre, I did so under the guarantee of an Imperial Act, that land should never be sold for less than 1*l.* per acre; had the minimum price not been raised to 1*l.* per acre, it is reasonable to believe that I would not have paid 1*l.* per acre for my lands. With reference to the special survey system, the guarantee that land should never be sold for less than 1*l.* per acre was most explicit and positive; under this system there was a power to take, irrespective of competition, but in one block, 5120 acres of land, provided a party paid 5120*l.* into the Treasury.

9. Do you consider that a good system?—No, a very bad one; it was bad for the party purchasing, and for the country generally; at the time it was in operation the Home Government were ignorant of its effects. There was a power of selection generally, with the exception of three reserves, namely, around Melbourne, Geelong, and Portland; and there was also a farther power, on the part of Government, of reserving any places that might appear likely to become the seats of Government, or which possessed harbours. The special survey system ought to have been acted upon differently by the Home Government, more as the means of opening up new districts, by selling larger blocks of land than 5120 acres, and at a less price than 1*l.* per acre. Those parties who took lands under that system in the settled districts were, in many instances, great losers; some of the land so taken is not now worth 2*s.* 6*d.* an acre.

10. What system would you recommend with respect to the disposition of the waste lands of this colony?—A system of sale by public competition at auction, with a low minimum price.

11. What price?—I would say there should be three prices, having reference to agricultural and pastoral lands. The agricultural lands may be considered as principally on the sea-coast line, though in many instances they may be found many miles from the sea; while, on the other hand, pastoral lands may be on the sea board, but are principally in the interior. The prices I should propose are 2*s.* 6*d.*, 5*s.*, and 10*s.* I think that *very large masses* of land would be purchased at 2*s.* 6*d.* an acre, notwithstanding the declarations of squatters that they are not worth 1*s.* an acre.

12. What kind of land would that be at 5*s.* an acre?—Intermediate lands; lands, perhaps, not good for agricultural purposes, but the situation of which might make them doubly valuable as pastoral lands, and in some degree suitable for agriculture.

13. Do you mean what we call forest land?—All land may be termed forest land; I refer to a quality of land, portions of which might be fit for cultivation among the more pastoral land. As an instance, you may get, in any rural district, such as Bathurst, Yass, or Argyle, large masses of land that would be well sold at 2*s.* 6*d.* per acre; but amongst them there may be here and there half a section, or a section, worth 5*s.* or more, because they are in some degree suited for cultivation. I think it absurd to suppose that agriculture is not to be carried on in districts styled pastoral; *there must be cultivation throughout the length and breadth of the country.*

14. You do not think that the climate of the interior districts offers an insuperable obstacle to cultivation?—I do not; as an instance, there is no comparison between the wheat produced about Yass, Bathurst, and Goulburn, and the wheat produced here in the county of Cumberland; one bushel of the former is worth two of the latter.

15. Is the harvest equally certain?—It is much more so in the interior than in the county of Cumberland.

16. Then you do not accede to the proposition, that lands decrease in value as they recede from the sea?—No; one of the strongest proofs that that is not the fact is the present state of the country about Goulburn. Goulburn is, perhaps, the best town of its class in New Holland; it is advancing much more rapidly than towns on the sea board line; it is more thriving, for instance, than Wollongong, Port Macquarie, Campbell Town, Liverpool, Parramatta, or any of the minor towns along the sea-coast.

17. (*By Mr. Lamb.*) Do you know the land on the Tumut?—Yes; it is a rich pastoral district, with alternate patches of good arable soil.

18. (*By the Chairman.*) To what do you attribute the superiority of Goulburn?—It is in the centre of a large inland trade, and the country around is well adapted to any purpose to which it may be applied, either for agricultural or pastoral purposes; to agricultural, not in any great quantity, but much more than sufficient for the wants of the district.

19. Are you of opinion that the country can support inland towns?—Yes.

20. It is not a chimera then to suppose that towns will arise in the interior?—The success of the country will depend much upon towns well placed in the interior; I think one of the strongest proofs of this is, that the towns which have succeeded least are those within the sea-board line; there is no comparing Campbell Town, Liverpool, or Port Macquarie with Goulburn.

21. Or with Bathurst?—Very likely; but I am not aware what progress Bathurst has lately made, not having visited it for some years.

22. (*By Mr. Suttor.*) Are you aware that the population of Bathurst is double that of Goulburn?—The mere population of a place is not indicative of its prosperity, or otherwise, for I believe that the population of Maitland is double either that of Goulburn or of Bathurst.

23. (*By the Chairman.*) What land would you propose to sell at 10*s.* an acre?—There are large masses of land that I am acquainted with that ought not to be put up for sale at less than 10*s.* an acre; they are principally in the southern district, and lie between Geelong and the Glenelg, the lands round Lake Colac, and the country lying on the Wannon and Wando Rivers, and this applies also to many other districts.

24. You would retain the principle of sale by auction?—Yes.

25. You think by that means large breadths of land would be sold?—Yes.

26. Have there been any recent sales of land at Port Phillip?—Yes; the land sold has been principally town land. There have been some lands sold at Warnambool, about twenty miles from Port Fairy, which realised 100*l.* an acre.

27. Is that land in the intermediate or unsettled district?—In the settled district, *because of being within three miles of the sea;* but the unsettled district, by the present Orders in Council, immediately abuts on it.

28. What is done with that land immediately beyond it?—It is occupied by squatters, with the exception of the land that I and a few others possess.

29. The whole Port Phillip district is in the occupation of squatters?—With very few exceptions; I do not think there is any land purchased between the River Leigh, in the district of Geelong, and Port Fairy, a distance of 120 miles, with the exception of about 7000 acres at Lake Colac, which have been purchased by Mr. Robertson.

30. Have you read these new Land Orders?—Yes.

31. Will you state your opinion of them to the Committee?—Generally speaking, I should say they are bad in principle, and that they will be quite as bad in working out.

32. What is your principal objection to them?—They will prevent the country being settled during their operation; they will take away from us all adequate means of obtaining labour, inasmuch as the charges on the squatter will be quite inadequate for that purpose; and the squatter himself will not derive from the regulations the advantages which were sought for. If the lands were subject to the charges placed upon them by this Act in a different form, the squatter's interest would be advanced instead of injured. The land itself becomes depreciated by these Orders.

33. With regard to the division of the colony into the settled, intermediate, and unsettled districts, what do you think of that division?—That the division was fixed by those who were quite ignorant of the country they were adjudicating upon.

34. Will you point out how this is?—The reserves made under this Act apply, with few exceptions, to lands hardly worth anything, whilst the very best lands have been thrown beyond the reach of the purchaser or agriculturist. For instance, the lands reserved at Port Phillip, along the banks of the Glenelg, and around Portland Bay, are sterile wastes, unfit for the sustenance of any animal, whilst the very best lands in the same district constitute the unsettled class of lands.

35. What do you think would be the practical effect of these regulations in Port Phillip?—To lock up immense masses of land which in a few years would have been sold, and become profitable to the purchasers, by creating, with their price, a large population.

36. Do you perceive any injustice in their operation with regard to those who have become purchasers of land?—I think it unquestionably unfair to them.

37. In what respect?—No land has been purchased at Port Phillip, under the late regulations, at less than 1*l.* an acre, and there are large portions of land adjoining which are worth quite as much as the land which has been sold at this price; for instance, round Lake Colac there are large masses of land which are fully as valuable as that which has been sold to Mr. Robertson, and this land, by the orders in Council, comes within the unsettled district. This land will feed twice the quantity of stock that the best land in the middle district will do, and I see no reason why it will not feed as much stock as the good pasturage lands of England; the climate is very suitable, and the land is as rich as the soil in Great Britain. This is the case also in the districts of the Wannon and Wando Rivers, and in many others.

38. Are these places accessible?—Yes.

39. How far are they from a sea-port?—The nearest port, which is Geelong, is not 60 miles from Lake Colac.

40. Is the country accessible?—Yes, it is a slightly undulating country.

41. What will be the nature of the ownership that the squatter will acquire, who obtains a fourteen years' lease, with the right of renewal—what is it equivalent to—do you see any period at which the ownership will cease?—I think the squatters look upon it as likely to lead to the obtainment of the fee simple. I think the Government have, unwittingly, done a great injury to the value of land, without having given any adequate benefit to the squatter. The advantages which the squatter might derive from the possession of good agricultural land is locked up from him. I allude to the clause which prevents the cultivation or sub-letting of the land. I think the object of the home Government, in these land orders, was expediency; they have endeavoured to please a large body of men, and have locked up the land, without giving that body the great advantage that, at first sight, might appear to have been given; because the value of the land is, in a great measure, rendered inoperative by these regulations, by being locked up for a specific purpose. It is unquestionable, that it will be more difficult to settle, advantageously for the colony, the squatting question at the end of 14 years, than it would be now.

42. Is it not injurious to Port Phillip that it should be treated as a district unfit for anything but pasturage?—Unquestionably.

43. You have already stated that these regulations will prove injurious to immigration?—A perfect barrier to immigration; there will be no fund resulting from the sale of land to bring out immigrants from Europe.

44. What would be the result if the minimum price of land were kept up, and this system were put into force?—Ruin to both landowner and squatter.

45. You think this which is considered a boon will prove an actual injury to the squatter?—Yes.

46. Suppose the fee simple were given at once, do you see how the difficulty of obtaining labour could be overcome?—In some measure; because those persons in possession of the fee simple would sell portions of these lands.

47. Would they apply the proceeds in bringing out labour?—Necessity would compel them to do so in some degree, otherwise the lands which they retained would be valueless.

48. Do you think parties could sell land here if this dearth of labour continues?—No; land is valueless without labour.

49. Would the parties selling apply the proceeds to the introduction of labour?—I have said necessity would compel some appropriation of such proceeds to labour; but they could not be expected to apply the proceeds of their lands to the general purposes of the colony.

50. (*By Mr. Lamb.*) Do you think the present Act of Parliament, which fixes the minimum price of land at 1*l.* an acre, deters capitalists from coming out, who would come out if the price were reduced?—No doubt.

51. Would not the taking up these lands under 14 years' leases, even if the price were reduced, have a prejudicial effect upon the immigration of capitalists?—It would, because the very best lands in the colony would be tied up.

52. So that even if we did return to the old minimum price of 5*s.* an acre, these leases would act as a bar to the introduction of capital?—No doubt. All the land that would be purchased would be very

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small, and choice portions of runs, which would be taken up by the occupants under their right of pre-emption.

53. In short, under the present system, there would be nothing to induce people to immigrate to this colony?—There would be everything to deter them.

54. You know the special survey that was taken up about forty miles from Melbourne, at Kilmore?—Yes.

55. You know that 1*l.* an acre was paid for 5120 acres there?—Yes.

56. The lands immediately up to this survey, and township of Kilmore, are occupied by squatters?—Yes.

57. Are you aware what rent they would have to pay for the occupation of that land?—That comes within the unsettled district; they would, therefore, have to pay one-fifth of a penny an acre for land as good as that which others have purchased at 1*l.* an acre.

58. The quality of the land there is very good?—Yes.

59. Do you think many people who hold lands in that neighbourhood would be induced to buy if it were put up to competition at a low minimum price?—Yes, not only there, but in all the country comprehended in the Port Phillip district.

60. The land around Kilmore is placed in the unsettled district?—Yes, all the lands up to the very fences enclosing the Kilmore Estate will be held by squatters under fourteen years' leases. These lands, which are as good, for most purposes, as Kilmore, will be held for one-fifth of a penny per acre.

61. (*By Mr. Suttor.*) Do you not think that, under these regulations, the Government can prevent a portion of the evil you anticipate, by bringing the land you speak of within the intermediate district?—Such power may be exercised by the Government, but to do so will be of little good, as the power of purchasing land in the intermediate district will be very seldom exercised, as much ill feeling would be engendered by a man seeking out a parcel of land centered, as it were, in the lands held by the squatters under these eight years' leases. Strong feelings of antagonism would be excited, and the man, after paying highly for such portion of land, would be kept strictly within its limits by the lessees surrounding him on every side. Therefore, it is quite a false hope that may be entertained by the Government, that any lands, speaking generally, will be purchased in the intermediate district.

62. (*By Mr. Foster.*) But if when such lands were included in the intermediate district, the price of land were also reduced, would not persons purchase larger quantities?—If lands were purchased at all in the intermediate district, no doubt larger quantities would be purchased if the price were reduced; but the difficulty would be still the same, as the purchaser would still find himself surrounded by the antagonist lessee, from whom he had taken this land by his purchase.

63. With reference to the clauses in the regulations that restrain the right of cultivation—do you consider it equitable to those persons who have purchased land, that the squatter should be allowed to cultivate his land in order to sell the produce?—The principle of leasing being once conceded to the squatter by the Government, I think they would have done wisely by giving, during the lease, every power over the land. With reference to such general power to the squatter, my own locality round Port Fairy is perhaps the only one where a very large sum of money has been expended, with a view of obtaining agricultural soil; the value of such soil might appear to be deteriorated by granting to the squatter this power of cultivation; but, adopting the general principle, I think it injurious to the whole colony that such leases, if they be granted at all, should be fettered with such restrictions.

64. Would not much of that land which you recommend should be put up at 10*s.* an acre, fetch a good deal more?—Yes. I know of land, put up at the old minimum price of 5*s.* an acre, in this district, being purchased at a higher price than 1*l.*, which, if the minimum price had been 1*l.*, would not have been applied for at all.

65. Do the best lands reach a long way into the interior, for 70 or 80 miles, in the Port Phillip District?—No; the best lands, such as are fit for agricultural purposes, do not extend 50 miles from the coast.

66. A great deal of your objection to the proposed Land Orders would be obviated if a larger settled district were marked out?—No doubt it would have been better for the colony generally.

67. It would have prevented the rich lands from falling into the hands of the squatter?—Yes. The good lands in the Port Phillip District lie differently from what they do here. In that district they form the coast line, keeping from the sea some 40 or 50 miles, and running in length from east to west towards the Glenelg. If a reserve of that land were made, as the settled district, the remainder would be well adapted to pastoral purposes.

68. As the good land extends to about 40 or 50 miles from the sea coast, supposing that had been reserved, would not all the land have been reserved that it would be desirable to sell for the next twenty years?—Perhaps so. Outside of such settled district there would be portions, here and there, of the richest land adapted for agricultural, or any purposes; but the great mass of land beyond such line would be, during the next twenty years, only applicable to pastoral purposes.

69. What objection do you see to giving the squatter fixity of tenure beyond that line, by means of this system of leases for 14 years?—I think the principle bad, of giving any lease of Government land, even though it may not be available for the purposes of sale for several years.

70. Do you consider, for an agricultural population, that the principle of concentration is desirable?—To have an agricultural population you must concentrate.

71. Would it be desirable, by fixing a lower price upon this inferior land, to induce persons to disperse into the interior?—Such would not be the effect of having a low scale of price—say 2*s.* 6*d.* per acre—for inferior land; the values being relative, the 2*s.* 6*d.* an acre lands might, on an average, be dearer than the 10*s.* an acre lands. The value of the land would not depend upon its distance from the sea; there are large portions of land on the sea-coast only fit for pastural purposes, while portions of land a long way from the sea might be well adapted for agriculture or purposes of local convenience; for instance, lands of good quality in any settled district, as around Yass, Bathurst, and Goulburn, ought to be put up at 5*s.* or 10*s.* an acre, according to quality and position.

72. You have said that if the price of land were reduced, the present landholders would be entitled to compensation—upon what grounds would they be entitled?—Because they bought in the belief that the land would not be sold for less; the words of the Imperial Act being that the land should never be sold for less than 1*l.* an acre.

73. Do you think the reduction of the minimum price to 5*s.* an acre would lower the marketable value of land already purchased?—No; in most cases it would not.

74. On what grounds would you be justified in asking for compensation?—Because persons who purchased land which was put up at 1*l* an acre might, if such lands had been put up at a lower rate, have obtained them for much less than 1*l*.; and the Government, by the words of their Act, have made 1*l*. their standard; however unwise such a measure may be, still that price has become the standard value.

75. (*By Mr. Lamb.*) Do you not think a sum of money, expended in the formation of roads, would give a great increased value to land far removed from the sea?—Of that there can be no question.

76. A moderate sum thus expended?—I am not prepared to say whether the sum might or might not be a moderate sum. In many districts, however, land of the very best quality is so accessible that no road-making is necessary; whilst in some districts, more especially the old settled ones, it would take a very large sum of money to reach the lands in the interior; but, as a general rule, applicable to the Port Phillip district, all that district is more or less available in its present state, without the necessity of any expenditure for any extent of road-making. This is a strong reason why the lands in that district should come under the head of lands in the settled districts.

77. Therefore a vast quantity of land at a considerable distance from the sea is of value?—Yes, of very great value.

78. With respect to land on the Tumut and Murrumbidgee, would not the value of that be increased if the roads were improved?—Yes; but I do not think a moderate sum would make those improvements; there the country is broken, and the good lands do not lie in large masses there, as in the Port Phillip district.

79. The land you have alluded to is capable of supporting a dense population?—Yes.

80. But cannot be rendered available as long as these Land Orders are in force?—No.

81. (*By Mr. Cowper.*) You think it desirable to have a minimum upset price of land?—I should say so, as a starting point, and not for the purpose of reserving land at that price, because I think at the prices I have named no lands will be applied for that are not worth them.

82. (*By Mr. Foster.*) For what reason do you propose minimum prices of 2*s*. 6*d*., 5*s*., and 10*s*. an acre, if land will fetch its value, no matter at what price it is put up?—For this reason, that sometimes, from causes which it is impossible to foresee, such as a depression in the money market, land will not sell readily at any price, and if there were no minimum price, good land might be bought at a price very much below its value.

83. There is a great deal of land in the Port Phillip district not worth 2*s*. 6*d*. an acre, for instance, about the Wyemera River?—There is a great deal of land there which is worth 2*s*. 6*d*. an acre.

84. But beyond that there is some not worth so much?—In every part of the colony there are lands of little present value; these would not be purchased, but be used by the owners of land adjoining.

85. Would you recommend that those lands should be sold?—Yes, if there should be a buyer for them.

86. At their real value at present?—At the minimum price.

87. You would not recommend that they should be sold under that?—No.

88. (*By Mr. Suttor.*) You think that time and population would give those lands value?—I think even now a considerable quantity would be sold for the purpose of controlling other lands in the neighbourhood.

89. (*By Mr. Cowper.*) You do not think the minimum prices you have mentioned would be so low as to throw a very large quantity of land into the market, without any sufficient reason, for the sake of speculation, or of merely holding the land?—Generally speaking, I should say not; occasionally a speculator would benefit by the upset price being low. Until we feel the effects of renewed immigration, no price at which land might be offered would induce persons to purchase in any quantity, because there is a disgust gone abroad with reference to land generally.

90. What has created that disgust?—I think, mainly, the new regulations, the sudden rise in the value of labour, and the difficulty of seeing our way clear to get a further supply.

91. Have you ever made any estimate as to the probable amount of revenue these leases might produce?—No, I have not; indeed it is at present almost impossible to do so.

92. You cannot offer an opinion as to whether that fund is, or is not, likely to be a sufficient security for a loan, or whether the amount derivable from the leases would pay the interest of a loan for immigration purposes?—I think that were parties inclined to lend money upon such security, a sum might be obtained which would, perhaps, bring a sufficient quantity of immigrants to supply the labour market for the next three or four years, but not for any length of time; but it is very questionable whether parties could be induced to lend money upon such security. I think Government, by granting these leases, are parting with the only legitimate security they have to offer.

93. (*By Mr. Foster.*) If the granting of these leases were coupled with the reduction of the price of land, do you not think sufficient funds would then be raised for immigration?—I fear not.

94. (*By Mr. Cowper.*) You fear the carrying out this scheme of alienation will affect the value of the lands as a security?—It would put the party who might be inclined to lend money upon the Crown lands of this Colony in a position of not being able to get any portion of it back again, as the Government has thrown away the power which it had of realising upon these lands, and thereby paying off the debt.

95. Do you not think the power the Government have reserved to themselves of placing these lands in the intermediate class would remedy that evil?—No, I do not think it would; because, for the reason I have before given, the Government cannot hope to effect sales of land lying within the operation of the eight years' lease, and therefore from such lands there will be no means of realising the amount of any loan.

96. You consider the operation and tendency of these Land Orders injurious to the colony?—Most injurious to all the interests of the colony, not less to the squatting than to other interests. By these Land Orders the emigrant labourer and emigrant capitalist have been excluded from this colony; the former cannot now be procured, because the means of defraying the cost of bringing him from his native country have been thrown away; the emigrant capitalist will not come to a country in which, notwithstanding its vastness, he would find the available soil locked up beyond the reach of his industry and capital; yet it is by these two classes that the colony can alone be advanced, and its resources developed; without them it cannot maintain even its present position; and whilst the landed proprietor may have cause deeply to rue his having given the Government his capital, the

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fruits of many years of toil and privation in the colony, as the price of lands, the value of which is now being annihilated by a heedless Act of the Imperial Government, the squatter will find that this Act, which entails upon him flocks and herds, without labour to tend to them, without the emigrant capitalist to give them a value, will render his "fixity of tenure" in the land merely the symbol of an unpeopled and waste country; of flocks superabundant, from want of labour; valueless, from want of a purchaser.

Friday, August 27, 1847.

Present:—

CHARLES COWPER, Esq., in the Chair.

WILLIAM P. FAITHFULL, Esq.	JOHN LAMB, Esq.
JOHN F. L. FOSTER, Esq.	WILLIAM H. SUTTOR, Esq.

J. Thompson, Esq.

August 27, 1847.

John Thompson, Esq., Principal Draftsman in the Surveyor-General's Department, called in and examined.

1. Have you read the first chapter of the Orders in Council upon the division of lands in New South Wales?—I have.

2. Will you state to the Committee whether there are any inaccuracies or discrepancies in the description of lands proposed to be included in either of the divisions there laid down?—There are some discrepancies.

3. Will you specify them to the Committee?—The first discrepancy is the mention of Bathurst as one of the towns around which 10 miles are to be reserved as settled land; whereas the town of Bathurst is far within the limits of the nineteen counties, and is moreover in the county of Bathurst, not Roxburgh, as stated in the Orders. The next—a slight discrepancy—is the mention of Wellington, which being in the county of that name, it is only from the unsettled land that the 10 miles have to be reserved. Then there is the mention of a town at the head of the Clarence River, whereas the site of the town has not yet been officially determined. Next comes the town of Macquarie, to which the same remarks apply as to Bathurst; Macquarie being on the sea coast, and almost equidistant from the limits of the county. Then to Ipswich the same remarks apply as to Wellington; Ipswich being on the borders of the county of Stanley.

4. Although it may appear surplusage to have reserved Bathurst and the town of Macquarie, do you think there is any object gained by reserving the lands which lie within a distance of 10 miles from those places?—Certainly not; the discrepancy has evidently resulted from an imperfect acquaintance with the geography of the colony.

5. (*By Mr. Lamb.*) Are not the lands reserved on the Glenelg of very inferior quality?—Yes.

6. (*By the Chairman.*) Can you conceive any object to be attained by the reservation of 50 miles from the sea in a straight line on the Clarence, and of only 20 miles measured along the course of the river on the Richmond, do you see any object in making these reservations in the particular way specified in the Land Orders?—I see no object; the arrangement has, no doubt, resulted from the circumstance of the Clarence being better known than the Richmond.

7. What is your opinion of the intermediate districts?—I have only to observe that there does not appear to be any sufficient reason for including the whole of Gipps' Land in the intermediate districts.

8. Can you inform the Comm ttee what additional number of counties are proposed to be formed in your Office?—48 have been suggested; 22 in the Port Phillip District, 7 in the southern part of the Middle District, and 19 in the northern part. Since these were proposed further information has been received, and many more counties might be suggested now.

9. Can you state to the Committee what is the estimated area of the 21 counties reserved as the settled district by the Land Orders?—About 26,000,000 of acres.

10. Is most part of that country surveyed?—Yes.

11. Does much remain to be done to complete the geographical survey of the 21 counties?—A great many of the minor features have still to be surveyed, also the western boundary of Macquarie, and the north-west corner of Gloucester.

12. Can you state the area of the 19 counties to the north?—I can only state very roughly—about 25,000,000 of acres.

13. Will you give the same information with regard to the other seven, to the south of the Middle District?—They may include about 10,000,000 of acres, and the 22 counties to the south may contain about 30,000,000 of acres.

14. With regard to the additional 26 counties in the Middle District, is there much to be done in the way of surveying them?—There is a great deal to be done, even to determine the boundaries. It was only proposed to proclaim them provisionally, so as to facilitate descriptions and references.

15. For the leases?—No; the new counties were proposed before the leases were determined on: it was before Sir Thomas Mitchell left for his last journey to the interior.

16. In the 22 Port Phillip counties you have spoken of, do you include Grant, Bourke, and Normanby, or do you make 22 counties exclusive of them?—They are included in the 22, and Stanley is one of the 19 to the north.

17. (*By Mr. Lamb.*) Provided these new counties are proclaimed, these 65,000,000 of acres will all be within the intermediate districts, and be occupied under eight years' leases, with the exceptions of Stanley and the specified reservations on the coast, along the lines of rivers, &c.?—Yes; the wording of the third section would certainly lead to this conclusion.

18. (*By the Chairman.*) What do you consider to be the area of the colony?—Three hundred millions of acres.

19. What do you estimate is already occupied?—Some two hundred millions.

20. Could you state what proportion of that is surveyed?—That is a very difficult question to answer, the word "survey" being understood in so many different senses. We have some general knowledge of all the principal features of the two hundred millions of acres. The lands towards the coast have mostly been surveyed with the chain, in some parts to a considerable extent inland, but the accuracy of the surveys and amount of information decrease as we approach to the interior.

21. (*By Mr. Lamb.*) And their only particular positions have been established by observation?—Yes, and by the merest possible sketches.

22. Besides these rough sketches you have pretty accurate knowledge of certain points?—Yes, we have accurate knowledge of some of the principal features. For instance, we know all the leading features of the country which Sir Thomas Mitchell has passed over in his journeys.

23. (*By the Chairman.*) You have a general knowledge of the quantity of the colony occupied by what are called squatting stations?—Yes, we know with little exception how far they extend into the interior, and it is understood that in all the principal squatting districts the runs are conterminous.

24. Do you think any great difficulty will arise in obtaining the necessary description of the squattages occupied by different individuals so as to create any great delay in giving them leases under the Land Orders?—I consider it to be merely matter of labour, a work of time; I do not perceive any great difficulty in it.

25. With your knowledge of the amount of surveying talent in the colony, how long do you suppose it might take to perform the necessary surveys?—Perhaps eight or ten Surveyors could be thrown into the field, and the whole of the squattages in the Middle District might then be surveyed in two or three years.

26. What do you think might be fairly estimated as the probable expense of performing this service?—It might cost about 10,000*l.* a year; my estimate is, however, a very rough one.

27. Supposing then that the counties you have mentioned were proclaimed by the Government as intermediate, you would estimate the colony to be divided under the Land Orders in this way: about 26,000,000 of acres settled, 64,000,000 intermediate, and 110,000,000 unsettled?—Yes, that is a rough estimate, leaving out the consideration of the portions around towns, and along rivers, which are to be in the settled districts.

28. (*By Mr. Lamb.*) When you speak of the survey being accomplished in two years, would that be a sufficiently accurate survey to enable leases to be given under it?—These surveys should be made for the express purpose of determining the boundaries of, and obtaining the descriptions for, the leases.

29. (*By the Chairman.*) What mode of proceeding would you suggest as likely to be the readiest way of accomplishing the object? I would propose that the boundaries should be straight lines, extending to the cardinal points, except where rivers or streams form the boundaries of the runs; should scrubs, scrubby ranges, thick brush, or swamps interfere, practised surveyors have means of overcoming such difficulties. It is understood that most of the runs are conterminous, and as the rent is to be estimated by the quantity of stock which a run may be supposed to carry in all seasons, the area is not a matter of any import; all that appears to be required is, that the boundary lines embrace the whole that is claimed as a run; it will be necessary, therefore, in the determination of every boundary, that the Surveyor and the Commissioner of Crown Lands request the attendance of the squatters whose runs are conterminous, and who should each state their claim or views as to the boundary between their runs. The Surveyor would aid, by offering any professional suggestions; and, in case of dispute, the Commissioner should act as umpire. The Surveyor should proceed, as was the case formerly in surveying farms under the grant system, to measure all the squattages consecutively, beginning from some sufficient starting place, the confluence of streams for instance, and taking each of the squattages up or down a river, until all the runs in the district allotted to him were surveyed.

30. (*By Mr. Suttor.*) Will you state how you limit the area of the colony to three hundred millions of acres?—By considering the twenty-sixth degree of south latitude as the boundary on the north.

31. Do you know if squatting stations are confined to the present area of the colony?—I know there are some to the north of the twenty-sixth degree.

32. Then several squatting stations are beyond the limits?—Yes, unless it be considered that North Australia has reverted to New South Wales.

33. (*By Mr. Lamb.*) Although by the course you have suggested the boundaries of squattages might be defined, do you think the intervals between those boundaries could be at all accurately described—could any information be arrived at with reference to the interior of the squattages?—I do not think that would be desirable; that would come more properly into a general survey. It would not be well to allow the Surveyor to depart from his strict line of duty, which would be to define the boundaries of the squattages, or runs, and prepare descriptions for insertion in the leases thereof.

34. Of course, having the outer lines he could compute the quantity of acres contained?—Yes, that is a matter of course; the area is an important feature in a description.

35. But he could not give any information with regard to the peculiar features of the land contained within those boundaries? In some monotonous districts he might, but not generally, without adding to the expense, and drawing his attention from the more imperative business of determining and marking the boundaries of the runs.

36. It would be desirable if the increased expense and time could be given?—Yes; but if the runs are to be conterminous, and the boundaries straight lines, I see no immediate necessity for any general survey.

37. The proceeding which you have mentioned for deciding the boundary lines would not facilitate a general trigonometrical survey?—It would assist in the survey of the features of the country; but trigonometry is a distinct process, for determining by angles the true distance between certain points, and so rectifying the errors which are unavoidable in a general survey of features.

38. Could the work of those surveys be brought into the work of a trigonometrical survey, so as to lessen the expense?—It would not lessen the expense of trigonometrical proceedings, but it could be brought into the general survey.

39. (*By the Chairman.*) Do you think it would be desirable to allow the Surveyor who might be employed in running boundary lines of squattages, to be also employed in measuring small portions of land which, under the 6th section of the second chapter of the regulations, occupants of Crown lands are permitted to purchase for homesteads?—This could scarcely be, because the right to purchase does not accrue until the leases have issued.

40. How do you think those portions of land where the occupants might desire to exercise the right of pre-emption could be surveyed?—The applications would, perhaps, be chiefly for portions of less than 320 acres, in which case the applicants would have to pay for the survey, and I have no doubt there would be licensed itinerant surveyors travelling from station to station, if there were a remunerative demand for their services.

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J. Thompson, Esq.

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41. (*By Mr. Foster.*) If this right of pre-emption were exercised, would not the Government be put to great expense in surveying blocks of land?—There is nothing in the Orders, I think, to bind the Government to the immediate undertaking of such surveys.

42. (*By Mr. Suttor.*) The Government, I apprehend, would not send surveyors into the country unless they had several applications for blocks?—I should say not.

Friday, August 27, 1847.

John C. King, Esq., called in and examined.

J. C. King, Esq.

August 27, 1847.

1. You reside at Melbourne?—I do.

2. Have you resided there some years?—Seven years.

3. Do you occupy any stations in the Port Phillip country?—I am interested in a squatting station in that district.

4. Will you have the kindness to state to the Committee where the station you refer to is situated?—It is a cattle-station in the Western Port district.

5. Have you an interest in any other?—I have not.

6. Do you consider your station a valuable one?—It is not very valuable, but it is quite suitable for the purposes for which it is used, viz., a dairy and breeding-station.

7. How far is it from Melbourne?—From 35 to 40 miles.

8. Is it on the coast?—The homestead is three or four miles from the coast, but the station runs down to the Western Port Bay.

9. In what district will it be under the Land Orders?—It is in the unsettled district at present, but it can be brought within the intermediate district.

10. Have you read the Land Orders?—I have.

11. What do you think will be their effect?—I think, with regard to the Port Phillip district, they will operate very injuriously.

12 Will you state in what way?—As locking up the land from purchase by parties who would turn it to more profitable purposes than sheep-farming or grazing.

13. Do you allude to any particular clause in them, or to their general operation?—I consider the general system therein involved of preventing parties who are anxious to purchase from selecting land where they please, will be most prejudicial to the best interests of the colony.

14. Do you think much land would be sold in Port Phil ip, under any circumstances, so long as the minimum price is 1*l.* an acre?—I do not. I think 1*l.* per acre far too high as an upset price; but lands might no doubt be selected in favourable spots which would bring that price or upwards; still no large revenue could be expected from the sale of land so long as the upset price of 1*l.* an acre is maintained.

15. What do you think would be a fair minimum price for land in the Port Phillip district, or what system would you recommend for the selling of land?—I would recommend that no land in Port Phillip should be sold under 5*s.* an acre at present; that being the upset price, a just and fair competition at auction might safely be trusted to for obtaining the real value of the land, provided the Executive exercised a sound discretion in not bringing too much land into the market at once.

16. Do I understand you to express an opinion that you would not allow any land to be sold except by competition?—Yes.

17. Would you have one minimum upset price of land, or would you have different classes, according to the quality of the land, and the district in which it is situated?—There are many arguments in favour of a classification; but the expense of a valuation of the lands of the Colony for the purpose of determining to which class they should belong, would, in my opinion, interpose an insuperable barrier to the carrying out such a system at present; and I would not like to leave it in the power of the Crown, without such valuation, to say such a piece of land shall be put up at 5*s.*, and such another at 10*s.* per acre. I would infinitely rather have such a minimum price established, as I have mentioned, and leave it to public competition to decide as to the value of the land put up.

18. Do you think much land is likely to be purchased by the occupiers of Crown lands upon these leases, under the right of pre-emption?—I do not.

19. Have you considered at all that portion of the Land Orders by which the country is divided into settled, intermediate, and unsettled districts?—I have.

20. What do you think of the scheme there laid down?—I think the counties of Grant, Normanby, and Bourke, in the Port Phillip district, ought to have been included in the settled districts, and power given to the Governor of proclaiming new counties to be also in the settled districts; if this was done, no great inconvenience could arise from giving the squatters short leases on the frontiers of the Colony; but I object strongly to the portion of the Land Orders giving them fixity of tenure in the intermediate districts.

21. When you say fixity of tenure do you mean a fourteen years' lease?—I would not give so long a lease as fourteen years to the squatters in any part of the Colony; but wherever the slightest chance existed of a sale of land being effected, I would on no account give any lease at all, for I hold it to be quite indefensible in principle that four acres of land should continue to be appropriated to the feeding of a single sheep after a purchaser has offered who, by using the land for agricultural or other purposes, would make it return a profit of 5*l.* or 6*l.* an acre per annum.

22. (*By Mr. Foster*). Are you not aware that in the intermediate districts leases are given for eight years, and that there is an opportunity at the end of every year to purchase land for agricultural purposes?—I am quite aware of the nature of the system, but I think the right of purchase is so clogged with restrictions in favour of the squatter that the colonists generally will not benefit by the provision. In the first place the leaseholder has the right of pre-emption; secondly, in case he declines to purchase, the party buying the lands so refused by the squatter must pay him for his improvements, however valueless they may be to the purchaser; and third, the purchase of lands within a squatting run gives no right of depasturage over the waste lands of the Crown in the neighbourhood; for instance, upon the station in which I am interested if any person came forward and purchased the homestead, with the land about it, he would be required to give a considerable sum of money for extensive stock-yards and other necessary improvements of a cattle-station, such improvements being of no use whatever to an agriculturist, nor indeed available for any other purpose than that for which they were intended.

23. Supposing he were to purchase a section, not including the homestead, he would have none of these improvements to pay for?—That certainly would be practicable, but as the purchase would carry with it no right of depasturage over the adjacent Crown lands, I think the sales of lands in the squatting districts, at the present extravagant upset price, will be very inconsiderable.

24. Do you think it would be unfair if the settler were willing to give as much as any one else, that he should have the right of pre-emption?—I do not see why the squatter should be prevented from purchasing land on the same terms as other people; but, if he has fixity of tenure, he has no inducement to purchase; and I contend that the present high price of land, coupled with the conditions of these Land Orders, will virtually prohibit the sale of land in the squatting districts. The right of pre-emption—the necessity of paying the squatter for improvements—and the want of an outlet for stock upon the adjoining land—will all combine to prevent the sale of land in these districts.

25. Do you think it unfair that the squatter should be paid for his improvements?—In case the purchaser retained the improvements, I think a fair price ought to be paid for them; but no buyer of land ought to be compelled to pay for improvements which he did not require.

26. It would be hard upon the squatter that the agriculturist should have them for nothing?—He might remove them.

27. Would it be worth his while to remove the materials of which a house was formed, from the station?—I hardly think it would, unless it were a weatherboard-house of a superior description.

28. If an agriculturist wanted a portion of another person's run, would it be necessary that he should purchase the homestead?—The homestead might be the best suited for his purposes, and, in most instances, it commands the water.

29. (*By the Chairman.*) Your view of the operation of these Land Orders is that they will impede the progressive settlement of the country about Port Phillip?—Yes. I make no reference whatever to the district of New South Wales, as I consider it a question of comparatively small importance there. It will not, indeed, be of so much consequence, for a hundred years to come, to this part of the colony, as it is now to Port Phillip. In illustration of the position I have taken, as to the extreme injustice of the squatting orders to the purchasers of land in the Port Phillip district, I may state that within a few miles of my station there is a special survey of 5,020 acres, purchased at 1*l.* per acre, while under the present Land Orders it is proposed to lease, for 10*l.* per annum, five or six times that extent of equally good land, in the immediate neighbourhood.

30. Is that very rich land which is included within the boundaries of your run?—Some portions of it are very good land.

31. How far is it from the town of Melbourne?—From 35 to 40 miles.

32. How do you occupy it?—There are cattle and a few horses upon it.

33. No sheep?—No, the district does not answer for sheep.

34. You do not appear to consider that it would be a very great hardship that the squatter should be required to give up land which he has occupied as a sheep-run, whenever the progressive settlement of the colony would enable any person to purchase the land at a fair price?—It could hardly be termed a hardship to the squatter to ask him to give up lands held on sufferance, when the general good of the colony required that they should be applied to more beneficial purposes. The squatter might, it is true, find some difficulty in securing a place for his flocks elsewhere; but considering that it requires four acres to feed a sheep, and that, from that quantity of land judiciously managed, an income of 20*l.* or 30*l.* a year might be derived, it would, in my opinion, be decidedly injurious to the colony to continue it in the occupation of a sheep-farmer.

35. How do you mean that an income of 20*l.* or 30*l.* a year might be derived from four acres of land?—I do not mean that they would yield a rental of 20*l.*, but that they would, in many parts of the district, yield produce to that amount if judiciously cultivated.

36. (*By Mr. Lamb.*) Do you think if these Land Orders were rescinded, and the minimum price were reduced to 5*s.* an acre, that the sales of land in the Port Phillip district would be large?—I think they would be very considerable.

37. Do you think that the system of allowing purchasers of land to have the occupation of waste lands in their vicinity would facilitate those sales?—Unquestionably.

38. Do you think they would be prepared to pay as great, or a greater rent than is now reserved by the Crown, under these Orders, for the land adjoining their purchases? Supposing the purchaser of land to be surrounded by squatting stations, generally speaking, do you not think the landowner would be disposed to pay, for the use of the land adjoining him, as much as the squatter will have to pay?—I do.

39. Then in fact the opening of the land again for sale at a moderate price, and the allowing the purchaser to occupy the waste land in his vicinity at a moderate rental, would facilitate the settlement of the district?—Most unquestionably; there would then be very attractive inducement held out to parties to become possessed of the fee simple of the soil.

40. Do you think any better mode could be devised for the sale and settlement of the lands than that which I have now suggested?—It is an extremely difficult question to enter upon, but I have always regarded it as a matter of principle, that the person who contributes to the land fund of the colony, by the purchase of land, has an unquestionably better right than the mere squatter to the occupation of the lands adjoining him, until they are required for sale.

41. (*By Mr. Foster.*) You have read the clauses in the Land Orders relating to the cultivation of land upon squatting stations?—Yes.

42. What is your opinion of the justice of that regulation?—As the intermediate district now borders upon sold land, and as the squatter only pays 10*l.* a year rent for from sixteen to twenty thousand acres, the purchase of the fee simple of which land would cost as many thousand pounds, I think it would be unjust in the extreme to allow him to compete in agricultural pursuits with the *bonâ fide* buyer of land.

43. You are aware that in the Port Phillip district there have been the most grievous complaints made by the purchasers of land in consequence of squatters near the town having carried on agriculture, and partially supplied the market with agricultural produce?—I think they have had good reason to be dissatisfied with that practice.

44. Do you think any hardship would be imposed upon the squatter by requiring him to purchase any land which he might wish to cultivate?—I think not; the cultivation of the soil under a depasturing licence, is not a legitimate pursuit for a squatter.

45. I think you have said that the squatter is fairly entitled to a right of pre-emption for any part of

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his run for which he is willing to give as much as any other party?—I have said that I could see no good reason why the squatter should be prevented from purchasing any portion of his run, provided he gave as high a price for the land as any other person; but I am very far from admitting that the squatters should be allowed to purchase lands on more advantageous terms than the rest of the colonists.

46. (*By Mr. Lamb*) Do you think, viewing the policy of these Land Orders generally, they will give satisfaction to the squatters?—I think not.

47. Do you think they will be satisfactory to the people of Port Phillip generally?—I am very sure they will not.

48. Will you state why?—The squatters are but small in number compared with the rest of the inhabitants of Port Phillip, and these Orders directly militate against the interest of the land owners, and the other non-squatting residents in the colony, and it will, I have no doubt, be considered by these classes an extreme grievance, that so large a portion of the lands of the colony should be alienated for so long a period to a class of men who have not borne anything like their legitimate share of the public burdens of the district, in the importation of immigrants, or otherwise.

49. (*By Mr. Foster.*) Why do you think the squatters will be dissatisfied?—Because I consider these Orders will not be found to give that comfortable fixity of tenure which the squatters now fondly imagine they have obtained. I think the fixity of tenure, as against the other colonists, may be good, but certainly not so as against the Crown.

50. (*By Mr. Cowper.*) Have you read the 9th section of the 2nd chapter of the Land Orders?—I have.

51. What is your opinion of that clause?—I think that, taken in connexion with the 14th section of the same chapter, it shows indisputably that the squatters are as much at the mercy of the Government under these Land Orders as they are at the present moment.

52. (*By Mr. Foster.*) I understood you to say that you saw no objection to granting leases for a less term than fourteen years in the remote districts?—Squatters may be useful as the pioneers of civilization, but in no case where land could be made applicable to a more beneficial purpose than that of sheep farming, would I give leases for more than one year; I therefore said that on the frontiers I would give them something like fixity of tenure, perhaps a lease for a few years.

53. You stated that as the counties of Bourke, Normanby, and Grant were reserved they would give a sufficient scope for purchasing?—In case these counties were included in the settled instead of the intermediate districts, and a power vested in the Executive of proclaiming new counties, to be also included in the settled districts, the question of fixity of tenure would be rendered comparatively unobjectionable.

54. Do you think if the quantity of land reserved were made much larger, and the price of land were reduced to a moderate sum, that the system would work?—I think if the settled districts were extended to the extent I have recommended, and the price of land were reduced to 5*s.* per acre, that the sting would be effectually taken out of these land orders.

55. (*By Mr. Lamb.*) Looking to the tenure of these leases, and the position of the squatters, both in the intermediate and unsettled districts, do you not think they are placed in political dependence upon the Government?—So strong is my opinion upon that subject, that although I was formerly a zealous advocate for giving the squatter the electoral franchise, I should now be sorry to see a single settler have a vote in right of his station. The squatters, as a class, will be so completely dependent upon the Crown, that it would be in the power of the Government so far to control their votes as to return such a number of their own adherents to the Legislative Council as to render the system of popular representation which we now enjoy utterly valueless.

Friday, August 27, 1847.

William H. Hovell, Esq., J.P., called in and examined:—

W. H. Hovell, Esq., J.P.

August 27, 1847.

1. You have resided in this colony for many years?—I arrived in the colony in the year 1813 as a free settler.

2. Have you read the recent Orders in Council?—I read them this morning for the first time.

3. Will you state to the Committee what is your opinion as to their operation generally?—I think the regulations which refer to what is called the intermediate district are not judicious; that land should not, in my opinion, be locked up for eight years, because it could be appropriated to other purposes. I think the country around Ipswich should have been reserved, as also that at the head of the Clarence and Richmond, New England, and the whole line of the left, or west bank of the Burrawah river, by a line drawn to the Murrumbidgee, 50 miles below Gundagai, from Gundagai to the Hume below Aldbury, thence to Seymour; from which I would recommend a west course to the Glenelg, and eastward along the left or south bank of the Goulburn. All Gipps' Land should have been reserved; the cultivators there can not only ensure good crops of grain, but two crops of lambs also; the regular seasons, and a sufficiency of rains, ensure these advantages, which are not enjoyed in the country through which the Murray, the lower Murrumbidgee, the lower Lachlan, and Macquarie rivers run. My knowledge of the tract of country of which I speak, particularly of the southern and western portions, leads me to this conclusion.

4. Do you think in other respects that these regulations will be beneficial in their operation or otherwise?—I do not see that the lands in the 14 years' squatting districts could be appropriated to a better purpose, as the stock only eat off the grass, which otherwise would be destroyed.

5. For the sake of giving the squatter the use of the grass, do you think there was any necessity to establish so complicated a system; might not the land have been left in the possession of the squatter, so long as it was not required for other purposes?—I think by giving the squatter a lease of the land, the land will be improved.

6. In what way?—The squatter will make improvements on the land for his own benefit; having a sort of right in the land, he will have a desire to improve it, which he had not before, as from some caprice of the Commissioner, or other cause, he might be ousted from his land at any time.

7. Will you state to the Committee the kind of improvement the squatter will make, or what sort of improvements his pastoral pursuits will require?—The fencing of the land so as to form paddocks, the erection of necessary buildings, and sinking wells in different parts of his run.

8. Do you think, in order to induce a squatter to make improvements of the kind you describe, it was necessary to give him a lease for 14 years with a right of renewal, so long as the land in the interior of the colony is not worth 1*l.* an acre?—It was right to give him a lease of the land for a term of years, to remunerate him for his outlay; as to any portion of the land being sold at 1*l.* an acre, it is quite out of the question.

9. Do you think less than 14 years might have sufficed for the object you mention?—Perhaps 10 years might have been sufficient.

10. What do you think will be the operation of this system of leases, coupled with the right of pre-emption, at the minimum of 1*l.* an acre—do you think the squatter has any chance of being disturbed?—If the land is to be sold at 1*l.* an acre, surely not.

11. You think the minimum price of 1*l.* an acre too high?—I do, for land in any part of the colony.

12. What do you think would be a fair minimum price?—I think there should be three or perhaps more prices; land near navigable rivers, or towns, should be 10*s.*; land in agricultural districts 5*s.* or 6*s.*; and from the line of country termed the agricultural districts the price of land should diminish from 5*s.* to 1*s.* 6*d.*, or 1*s.*, in proportion to the distance of that land from a market.

13. Do you think it would be desirable for the Government to sell land at so low a rate as 1*s.* 6*d.* an acre?—It would raise a fund for immigration, and would cause the people to concentrate more than at present.

14. Do you not think a great deal of land would be sold throughout the colony if the price were reduced to 5*s.* an acre?—No doubt.

15. Do you think the holders of these leases would have any reason to complain if the Government were to reduce the minimum price to 5*s.*, even after they were placed in possession of their leases, under these Land Orders?—I think they would have no right to complain; the squatter may be very thankful that he has his run for 14 years, let the price of land be what it may.

16. (*By Mr. Foster.*) Would not a squatter have a greater right to complain if the price were now reduced, than he would have if it were reduced after he had obtained a lease for 14 years—would he not be in a better position, on account of having the lease, and therefore have less reason to complain? Yes. There can be no doubt that the price of land is too high, as scarcely any sales are now effected, and no fund is raised for the purpose of immigration.

17. (*By the Chairman.*) You look upon the land question as affecting the question of immigration?—Yes.

18. You think it desirable that there should be a fund to be devoted to the introduction of immigrants? Decidedly; but that will be impossible so long as the price of land is kept up to 1*l.* an acre.

19. Do you think that there will be a sufficient fund from these leases to supply our wants as regards labour?—I think very little will be derived from that source.

20. In that respect, what do you think of the Land Orders?—As I have before stated, I think the locking up of the lands in the intermediate district, for eight years, is most impolitic. I think the settled districts are much too small, especially in the Port Phillip and the Moreton Bay districts. These lands ought to be left open for sale, at a lower price than 1*l.* an acre.

21. I gather that you would desire to see every restriction removed from the sale of lands, in order that an immigration fund might be raised from them? Yes, from those lands applicable to agricultural purposes.

22. And you would desire simply to give the squatter such a guarantee for his possession as would enable him to feel a tolerable degree of security, for a limited number of years, in the occupation of his pastoral lands?—I would give him a lease, as he now has, for a period perhaps something less than 14 years, but not less than 10.

23. You would not secure that lease to him by keeping up a prohibitory price of land, such as 1*l.* an acre, coupled with the promise that he should have the lease renewed?—I think the term too long, the price of land too high; and I may go farther and say, that at the expiration of the lease we should be bound to give up the land if required.

24. Provided the progressive settlement of the colony were impeded by the occupation of the land in that way?—Yes.

25. (*By Mr. Lamb.*) I understand that you consider no material fund, for the purposes of immigration, will be raised until the price of land is reduced?—Just so.

26. Even in the interior—I would instance a district with which you are well acquainted, the Murrumbidgee and Tumut—there are very rich lands?—Yes.

27. Do you think a considerable portion of them would be sold if the price were reduced to 5*s.* an acre?—I am sure of it. I would recommend that the whole tract of country which I have before described, and which, under the new regulations, will be locked up by eight years' leases, should be left open for purchase.

28. You were in the Colony at a period when large quantities of land were sold at 5*s.* an acre?—Yes.

29. Much of this land was bought from the fact of the purchaser commanding a greater quantity than he actually bought of the land, of what is called back run?—Yes.

30. Do you think from your experience, that any injury was done to the Colony by that course—on the contrary, did it not promote the sale of a large quantity?—It did promote the sale of a large quantity, but it tended greatly to injure the purchaser, because parties were desirous of getting land, and they purchased merely for the sake of obtaining it, and not with reference to the return it would make them; they purchased land, and when called upon for payment, they were thrown into an embarrassed state; consequently much of that land has since been sold, at a lower sum than was given for it; some portions did not realize half the upset price.

31. (*By the Chairman.*) Were not parties induced to purchase more than they otherwise would have done, from the threatened intention of the Government to raise the price of land to 1*l.* an acre?—That was, no doubt, one cause, and the great facility of getting money at the Banks was another.

32. (*By Mr. Foster.*) You spoke of selling land in the far west at 1*s.*, or 1*s.* 6*d.* an acre, do you mean that it should be sold in blocks at that price?—Yes, it should be sold in square blocks, say five miles back from the water frontage.

33. (*By Mr. Suttor.*) Do you see any objection to the whole of the land being open for sale at a

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reduced price?—I see no objection to the land being open for sale, provided parties were not allowed to purchase the land over the heads of squatters who had leases.

34. What is your objection to having the whole of the land thrown open to sale?—As it is already leased to the squatters, it would not be fair to recommend that it should be taken from them.

35. Would it not be equally unfair to recommend that the land should be taken from those parties who have got leases in the intermediate district?—Not so much so, because large portions of land in the intermediate district are fit for agricultural purposes.

36. On the banks of the Murrumbidgee and Murray?—Yes, down to about fifty miles below Gundagai, and from that along to the Hume; it is a fine country for the growth of grain.

37. This country under the present regulations is included in the intermediate district?—Yes.

38. Within which the eight years' leases are to be granted?—Yes.

39. And you recommend that the whole of the country to which you have referred should be reserved?—I do.

40. Would not the same objection apply to the reservation of these lands, as to the sale of lands in the unsettled district—you object to the sale of land in the unsettled district, because it would not be fair to the squatters who have got leases—would it not be equally unfair to those who have got leases in the intermediate district, that this large tract of country should be thrown open for sale?—Perhaps it would.

41. (*By Mr. Lamb.*) Being acquainted with the district to which you have referred, the Murrumbidgee and Tumut—I would ask are there not a large number of squatters there who are cultivators?—Yes, the Tumut and Murrumbidgee is thickly studded with small cultivators.

42. Who have taken out licenses?—Yes, and cultivate for sale.

43. They supply the town of Yass, and the stations generally?—Yes.

44. Under the second section of the second chapter of these regulations, can any person occupy a run which is not capable of carrying at least four thousand sheep—if these regulations are carried out, will not these small squatters be ousted?—Yes, because many of these men have runs of less than five miles, at least so I am informed.

45. Very much smaller than that?—I think so; when I was at the Tumut it appeared to me that it was overstocked, therefore the greater portion should be used for agricultural purposes only; what the extent of their runs was I did not inquire, but I should say it was much less than that named in the regulations.

46. Would it not be an extreme hardship upon these small squatters to debar them from cultivating their lands, or from growing grain for the purpose of sale?—Assuredly. I think it would be a general injury, because it is from those small squatters that we are obliged to get grain to supply our stations in those districts where grain will not grow.

47. Will you look at the first section of the second chapter of these regulations—what do you think of that clause?—That if a person takes out a lease with the intention of cultivating these lands, he will find his occupation gone. I have previously stated, that grain will not grow in the country west of a given line; I might have said, that no vegetables of any kind will grow there, and that during two out of three months, between the middle of October, 1846, and January, 1847, over a distance of nearly twelve hundred miles, say down the Lachlan, nearly to the junction of the Murrumbidgee with the Murray, up the Edward, and through the whole of the Murray district, I could not get a vegetable of any description—the powers of vegetation being entirely destroyed by drought, excessive heat, and hot westerly winds. In some respects, Menaroo may be classed with the country I have just described.

48. (*By Mr. Foster.*) Do you think it is fair to the purchaser of land, that a squatter who pays only 10*l.* a year rent for his run, should enter into competition with him in cultivating the land?—I think it is not; but yet I think the squatter in the intermediate districts, possesses considerable advantages over both the distant squatter and the owner of land in the settled districts; it is therefore but fair, that the purchaser should have a lease of the vacant lands adjoining his own, on the same terms as the intermediate squatter.

49. The effect of allowing the squatter to cultivate his land without purchasing, would be to discourage others from purchasing?—Yes.

50. Do you think there would be anything unfair if the squatter were allowed to enter into competition, in requiring him to purchase 160 acres?—I do not think it would be fair in me, as a squatter, to enter into competition with a purchaser of land, in cultivating for the purpose of sale.

51. Would there be any hardship in requiring you to purchase 160 acres of land, if you wanted to cultivate it?—Yes, at 1*l.* per acre, certainly there would.

52. You think the price of 1*l.* per acre too high?—Yes.

53. (*By the Chairman.*) Do you think it politic to prohibit any class of persons in the community from entering into agricultural pursuits?—I do not.

54. (*By Mr. Foster.*) Do you consider that any class is prohibited by these regulations?—They are not prohibited from cultivating, but from selling.

55. Could they not get the privilege by purchasing the fee-simple of the land?—I am not capable of answering the question, but I think they ought to have the right to do as they please with their own land after purchasing it.

56. Would you give the right of pre-emption to the squatters?—Yes.

57. (*By Mr. Suttor.*) To what extent?—To the whole of their runs.

58.—(*By the Chairman.*) How would you value the land to which you would give the right of pre-emption—how would you decide whether it should be 6*s.* or 1*s.* an acre?—It should be at the lowest price, or rather it should be sold according to its classification.

59. You would give the squatter the right of pre-emption at 1*s.* 6*d.* an acre?—Yes, if the land were of that description which I have already valued at 1*s.* 6*d.*

60. (*By Mr. Foster.*) No matter what description of land it might be?—No; of course I refer only to land applicable to pastoral purposes classed as above.

61. (*By Mr. Suttor.*) In what way do you think land should be sold, by public auction or by private sale?—The system of sale by auction encourages a number of persons to oppose you. I have found at auctions many men have attended who had no intention of buying until they have found that some party residing in the locality of the land to be sold was anxious to purchase, and they have then bidden against him. In two instances, I had to give one man 20*l.*, and another 42*l.* not to oppose me.

62. Might not a person be subjected to the same inconvenience under the system of private sale;

for instance, might not a person knowing that you had a valuable piece of land adjoining you, which you were desirous to purchase, come to you and say, "Here is a piece of land which I wish to buy, but I will not purchase it if you give me 50*l.*" ?—Such a case might happen, but I think private sales the best.

NEW SOUTH WALES.

W. H. Hovell, Esq., J.P.

August 27, 1847.

Monday, August 30, 1847.

Present:—

Robert Lowe, Esq., in the Chair.

George Allen, Esq.,	John F. L. Foster, Esq.,
Charles Cowper, Esq.,	Joseph Phelps Robinson, Esq.,
William Pitt Faithfull, Esq,	William Henry Suttor, Esq.

Leopold De Salis, Esq., called in and examined:—

L. De Salis, Esq.

August 30, 1847.

1. You are a proprietor of stock beyond the boundaries?—I am, in the Murrumbidgee district.

2. How long have you been so?—Nearly seven years.

3. What is your opinion of the raising of the minimum price of land to 1*l.* an acre—do you consider it a beneficial measure?—I consider it a very injurious measure to the community.

4. Will you state why?—Because 1*l.* is far beyond the average value of the land, on the sale of which all our prospects of labour have hitherto depended; and secondly, because it has discouraged civilization amongst parties forced to occupy land of which they had but a precarious tenure.

5. Do you think the measure has done any mischief already, or is your objection merely a theoretical one?—The cessation of transportation, the great influx of labour in 1841 and 1842, and the monetary crisis, have all tended to modify and obscure the effects of the 1*l.* per acre system; during the last two years, however, they have been visible enough.

6. What do you apprehend the land might be worth in the Murrumbidgee district?—I think that depends very much upon circumstances.

7. On what part of the Murrumbidgee do you live?—Near the junction of the Tumut and Murrumbidgee, about 60 miles beyond Yass.

8. Is the land fertile in that part?—Some parts of it are, especially the river flats.

9. Is it good for cultivation?—The river flats are partially so; in wet seasons they produce heavy crops, though not of the best quality, whilst at the same time they are much subject to and soon affected by drought.

10. As you think the present minimum price too high, what would you recommend in place of it?—I think that will depend upon the purpose for which the land is purchased, whether only a few acres are purchased or a large tract of country; another thing to be considered is whether the purchase money is to be paid down at once, and further, what is to be done with it.

11. The Committee wish to have your opinion of the most beneficial manner of solving all these questions?—Considering that those parties most interested in the purchase of land have but little, if any, available capital, while their profits are greatly affected by any such scarcity of labour as now exists, I am of opinion that the most beneficial method of disposing of the land would be to give the squatter a right, and to encourage him to purchase his entire run, for which he should pay by instalments, the proceeds being appropriated to the payment of the interest of a loan to enable the public to bring out a sufficient number of immigrants. I consider that if such a plan were adopted, the squatter would be able to give a very high price for every acre of his land.

12. What price?—Under the most favourable circumstances, if the whole of the money were spent in immigration, and if he had only to pay a very low rate of interest, I consider that he could give as high as 2*s.* 6*d.* an acre.

13. For the whole of his run?—For the whole of his run; but I repeat that it must be under the most favourable circumstances. For instance, this plan of alienating land must be made general, a low interest must be required, and a large number of immigrants must be brought out.

14. In order that the money expended may be returned by a reduction of wages?—Certainly.

15. (*By Mr. Cowper.*) Do you think it would be necessary for a squatter to purchase the whole of his run?—I think it would be the most business-like manner of doing it. I disapprove of the system of taking a patch here and a patch there. I think it is absurd.

16. Is a large proportion of the land you occupy tolerably good land?—About nine-tenths, I should say, is poor land. A small portion, chiefly on the river banks, is exceedingly luxuriant.

17. Is there a considerable extent of rich land on the banks of the Murrumbidgee?—The flats extend, on an average, to the depth of about half a mile on each side of the river. This is the only land available for cultivation.

18. How many acres do you think are required to keep a sheep, taking the average of seasons, in your district?—I have never made a calculation, but I am certain an average of four acres for a sheep would not be far from correct.

19. (*By Mr. Faithfull.*) Do you think the country improves after it has been grazed over?—That depends upon the quality of the land. Dry land deteriorates; stringy bark or wet soil improves.

20. (*By Mr. Foster.*) What credit do you think a squatter would require to enable him to pay half a crown an acre for his land?—I calculate that the money should be obtained at four per cent.

21. Do you propose that the squatter should be obliged to pay for his run at the rate of half a crown an acre in ten or twenty years, or that he should pay a rent at the rate of one penny farthing an acre for an indefinite term?—I consider that there should be no compulsion to pay the principal up at any time, because the circumstances of the squatter would not permit it.

22. Then every squatter should get a grant of his whole run, subject to the payment of half a crown an acre, and the run should be rated at 1¼*d.* an acre?—Yes.

23. Do you think the squatter could afford to pay 1¼*d.* for the whole run?—I have said that he could, under favourable circumstances, by which I mean that this rent must be judiciously spent by the public, paying solely the interest of a loan to bring out immigrants. I have mentioned a high price for the land, but still it could be paid, were the money spent in a manner so beneficial to the country as I have proposed. I wish it also to be distinctly understood that the plan must be general, or at least extensively adopted.

24. You would not ask the squatter to pay the whole of his interest at once?—He might be able to

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do so if a large quantity of immigrants came in, but he could not unless they did come in: he could not pay more than he does at present for the land, unless the price of labour were reduced.

25. (*By the Chairman.*) Would you give the squatter a grant of his run, subject to the payment of this rent?—Yes; for I am supposing, under the plan I suggest, that the squatter would make an exertion in order to obtain the fee-simple of the land.

26. (*By Mr. Suttor.*) Would you propose that there should be one price of half a crown an acre, or different prices according to the value of the land?—I am supposing that to be the general value of the land: it might be a little more or a little less in particular districts. In my own district I calculate that there are about nine-tenths bad to one-tenth good, and I take half a crown to be the average value, if paid in the manner I propose.

27. Do you think, if the price of land were to be reduced to 5*s.* an acre, and the whole of the lands of the colony were thrown open for sale, any quantity would be sold within a reasonable time, parties being allowed to make their own selection?—I should think a great quantity would, but not sufficient to supply the colony with labour.

28. How would that affect the squatter?—I do not think the squatter would purchase an acre so long as he could have it by paying a rent.

29. But if the land was all open to sale, he would be liable to be bought out?—In many instances the squatter would doubtless be ousted by the purchaser of the water frontage. However, the colony is so large, there is so little ready money in it, and the owners of this very wisely prefer residing in Sydney, where there is now a pretty general notion that stations thrive only under the master's eye. On the whole I therefore think that squatters are not alarmed by the prospect of land being reduced to 5*s.*

30. Would not the squatter purchase his water frontage?—If he were obliged to purchase, and *could* do so, I think he would, especially if by so doing he might secure the back runs, and thus avoid paying license and assessment.

31. If he purchased the water frontage, and the money derived from these lands were devoted to immigration, would not that immigration, in a few years, give a value to his back runs?—I do not think a sufficient sum of money would be raised in that way to bring in any quantity of immigrants. It would have this disadvantage in comparison with the plan I propose—that it would not bring in a *sufficient* quantity.

32. You are aware that some squatters occupy an immense tract of country—many millions of acres?—No, I do not believe any squatter does.

33. Not in any one district?—I do not believe one squatter in the country has a million of acres excepting, perhaps, Mr. Boyd.

34. I presume you have not had much experience of the northern district?—No.

35. You have no very large squatters in your district?—No; Mr. Taaffe is amongst the largest; he feeds twenty-five thousand sheep on a run not much exceeding one hundred and twenty-five thousand acres.

36. You do not, I presume, think it desirable to give any one squatter the fee simple of three or four millions of acres?—Certainly not.

37. If there were any such squatters, you would not recommend that they should have the opportunity of purchasing the fee simple of the lands they occupy?—Unless their runs are fully stocked.

38. If they were fully stocked, you would recommend that to an unlimited extent?—Yes; but as such extensive stations could not possibly be conducted with profit, a high rent, such as I propose, would soon cause a subdivision.

39. (*By Mr. Robinson.*) If I understand you, you propose selling land at 2*s.* 6*d.* an acre, subject to a rent equivalent to 4 per cent.?—Yes.

40. You take the standard of four acres of land to feed a sheep?—Yes.

41. Have you made a calculation of what that would come to per sheep?—It would be about 5*d.* per sheep per annum.

42. This sum is to go to pay the interest of a loan to be expended in immigration?—Yes, and it is only upon that condition that I would propose to pay such a rent.

43. Then it is merely the interest that is to be paid—none of the capital is to be exported?—None of the capital is to be exported.

44. This immigration is to be carried on by a loan—the interest to be secured by the payment of this rent?—Yes.

45. And the principal secured on these lands, at the rate of 2*s.* 6*d.* an acre?—Yes.

46. Presuming that there will be a large influx of immigrants—that thereby the price of labour will be reduced—and that the value of the sheep will be increased, do you think the squatter can afford to pay 5*d.* per sheep per annum?—I am satisfied that if the plan is general, and a large number of immigrants is introduced, the squatter will be enabled to pay that rent; but this can only be in the event of the plan being made general.

47. Do you think that eight millions of acres, representing one million of capital, and bringing out 60,000 immigrants in the course of three or four years, would be sufficient?—I should think that 60,000 immigrants, introduced within three years, together with the promise of the fee simple of his run, would enable the squatter to pay the interest I propose.

48. (*By Mr. Suttor.*) What would you recommend should be done with these immigrants?—I would let the settlers take care of them.

49. (*By Mr. Robinson.*) Would not the immigration of so many persons call out resources of the colony which are now lying dormant?—I have no doubt but it would, for at present we are obliged to turn our attention to sheep, and nothing but sheep; agriculture is being entirely neglected in our parts, for we are obliged to put all our men to tend sheep.

50. (*By Mr. Foster.*) At what rate of wages would the squatter be enabled to pay the rent you propose?—15*l.* a year.

51. (*By Mr. Allen.*) Out of the 60,000 persons who might be imported in the next three or four years, how many servants would you expect to get; as in the 60,000, I presume, you would include a certain proportion of families?—I have made no calculation, but assume the rate of wages to be reduced to 15*l.* per annum.

52. (*By the Chairman.*) You speak of averaging the run at 2*s.* 6*d.* an acre, as I understand you, meaning that some parts might be worth more than that sum, and others less; I presume, therefore, that if a party wish to redeem the quit-rent, you would require him to purchase the whole run?—I

have not thought much upon the subject, but I think it would be absurd to divide the run, and it would not be fair to allow the occupant to pick out merely the few good acres. I have fixed upon 2*s.* 6*d.* as an average price for the land, which I am proposing should be bought *wholesale*.

53. Till such purchase took place the land could not be subdivided?—I presume not without trouble.

54. Upon this principle then the land could not be subdivided, or sold for mining or agricultural purposes?—I think the Government might make an arrangement by which this difficulty could be obviated; I have not myself thought much about the details.

55. (*By Mr. Foster.*) Do you think such a system would work equally, for instance, some of the lands which are now held under a squatting license are worth 1*l.* an acre, and others are not worth 1*d.*; under your system, as I understand it, you would give all the lands at the same price?—I was speaking of land the average of which would feed one sheep upon four acres.

56. But if a man had a run, one acre of which was capable of feeding a sheep, would you make him pay more than another party who had a run where four acres would be required for the same purpose?—I think it would be but reasonable to make him to do so.

57. Under your system you would make him pay the same?—I speak only of the part of the country with which I am acquainted. I have assumed that an acre of land capable of feeding one sheep, under my proposed plan, is worth 10*s.*

58. (*By Mr. Suttor.*) Do you think it desirable that the lands of this colony should for ever be kept as sheep walks?—I think the very best method to prevent that, is to do as I propose, and thereby bring out plenty of immigrants.

59. (*By the Chairman.*) What would you propose to do with these immigrants; the men would be required as shepherds, but what would become of the women and children?—I think plenty of work would be found for the women and children; the men would be labourers and shepherds for the present, but ultimately respectable yeomen.

60. Do you mean that they would ever be able to acquire ownership, or the fee simple of the land, if they became rich?—I am certain that if steady they would become rich and owners of land. It is well known that the poor man in service lays by far more than the poor settler.

61. According to the system you propose, they could not acquire less than a station, as the land could not be subdivided?—I have not, as I said before, thought much of the details of my plan; but I see no difficulty in Government facilitating the subdivision of runs when required; it might easily be arranged.

62. (*By Mr. Forster.*) Would not the fixity of tenure which you propose to give enable parties to settle upon the land as agriculturists, so soon as agriculture would pay? I anticipate that under this system there would be on each station small farmers; in fact the sons would shepherd, the remainder of the family would dairy and cultivate.

63. You see no reason why, if any person wished to purchase a small portion, he could not, under this arrangement, do so through the squatter?—I think, as I have before said, that some arrangement might be made by which the difficulty might be obviated.

64. (*By the Chairman.*) Have you read the new Land Orders? I have.

65. What is your opinion of them?—There are some portions of them which are very liberal, and others which do not go far enough.

66. Will you state what you approve and what you disapprove? I approve of those which relate to the unsettled districts, and disapprove very much of those which relate to the intermediate districts. I particularly object to the possibility of a run being taken away from the holder at the end of a year, even at 1*l.* an acre.

67. Will you state the grounds of your objection to that?—As I approve of leases, I consequently object very much to anything that would be so decidedly opposed to the principle of leases.

68. Do you think any land would be sold in the immediate district at 1*l.* an acre?—I think parties may purchase small portions, and that sly grog sellers and other disreputable parties, living upon our shepherds, will settle in the midst of our sheep stations.

69. What is it you approve of in these regulations, as far as regards the unsettled districts?—The certainty of holding a run for fourteen years.

70. Is that the necessary interpretation of these Orders?—If it were not I should disapprove of them.

71. Do you think the squatter will be called upon to surrender his run at the end of fourteen years?—That will depend upon the improvement that takes place in the country.

72. If he has been so wise as not to improve his station, do you see anything to turn him out?—If the neighbourhood had improved much, I do certainly; all the better portion of his land may be bought.

73. At 1*l* an acre?—Perhaps so.

74. Why should others buy it at auction at 1*l.* an acre, when he has not thought it worth while to exercise his pre-emptive right?—Because there are many parties who would intend living on the squatter and his men, whom it might suit to purchase small selected portions of the run.

75. You consider this measure to be very beneficial to the squatters—to what do you look for a supply of labour?—To themselves.

76. Do you mean to private enterprise?—No, to public enterprise; I expect that some Government measure will be adopted for introducing immigrants.

77. How would you raise funds?—By some kind of taxation.

78. What kind of taxation would you propose?—So much per head for every servant now in the country; to be paid by his employer.

79. By employers of every species of labour?—Generally, of every kind, both within and without he boundaries.

80. Do you consider that a better system than selling the land, and appropriating the proceeds to bringing out labour?—Yes; unless there be some regular quantity of land sold yearly, and that to a larger extent than has been hitherto sold.

81. Would that be preferable to imposing a tax upon the employers of labour?—I think that would answer the purpose without imposing a tax upon the employers of labour.

82. Which of the two would you prefer?—As an employer of labour, I should certainly prefer not to pay the tax. I should, however, prefer the proposed system of long leases, and paying the tax to the system of buying the land myself, and not having to pay the tax.

83. You consider these leases are very beneficial because they give a certainty to the squatter of holding his run—do you consider them beneficial to the rest of the community that are not

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squatters?—I consider that anything that benefits the squatter is beneficial to the rest of the community.

84. If we were to vote to every squatter, out of the general revenue, so much money in proportion to the quantity of land or sheep he possessed, I apprehend that that would be beneficial to the squatter; would it be beneficial to the rest of the community?—Certainly not.

85. Then the proposition cannot be maintained to its full extent—can you show to the Committee at what point it ceases to be tenable?—I do not wish to split hairs; my meaning must be evident.

86. Is there any other point of view in which you consider these regulations beneficial or objectionable—what is your opinion with regard to the prohibition of cultivation?—That this prohibition will be evaded.

87. How?—Persons who now make a livelihood by cultivation will continue to sell, and no notice will be taken of it; the prohibition will be a dead letter.

88. Do you see any period at which it is probable the occupation of squatters under these leases will terminate?—I have not thought much upon the subject, but I suppose that when the Government cease to give us leases our occupation will terminate; I will give up my run quietly when called upon to do so; the squatter could not resist the law.

89. Could any person come with a preferable claim to turn you out so long as the land was 1*l.* an acre?—I should think the occupant would have the best claim.

90. (*By Mr. Foster.*) Do you think the clauses in these Land Orders prohibiting the squatter from cultivation are unequitable to the rest of the Colony?—I think they are absurd.

91. Do you think it would be fair to the purchaser of land to allow the squatter to cultivate so as to compete with him?—In our part of the world I do not see how it can affect the purchaser of land; in other districts, near large towns, it might be unfair.

92. There is no great market in the interior?—There is no market at all on a large scale; the settlers purchase of one another, or from small farmers.

93. Do you see any hardship in requiring the squatter to purchase the land he cultivates—you observe that in these regulations he has the power of purchasing blocks of one hundred and sixty acres?—I think the regulation to which you have referred is an absurd one, and will be evaded.

94. Do you think squatters, generally speaking, have sufficient capital to purchase land to any large extent?—I am sure they have not.

95. To an extent sufficient to bring in an abundant supply of immigrants?—They certainly have not.

96. Then you do not expect to obtain sufficient funds for immigration purposes except in the way of paying the interest of a loan?—No, except by a very stringent tax, such as I have already spoken of.

97. But I understood you to say that the resources of the squatter are not sufficient to furnish an abundant supply of immigration?—I said that employers of labor within the boundaries should pay their share of the tax; the squatters could also furnish their proportion, if it were to prove immediately beneficial to them by reducing the price of wages; but I think the squatters alone could procure labor for all the Colony, by the plan of selling the land which I have suggested.

98. (*By Mr. Cowper.*) Who could procure labor?—The squatters, if they were merely called upon to pay a small interest.

99. That is to say, that the sums raised from the occupants of Crown lands, in the intermediate districts, would form a sufficient fund to pay the annual interest upon a loan, which loan would bring out a sufficient amount of labor—might not a much larger fund be raised by selling the land at 5*s.* an acre, and a thicker population be more speedily introduced?—I think more would be raised upon the principle I have suggested, with less hardship to the payer, and certainly many years sooner, than by selling the land at 5*s.*

100. Do you think much would be purchased by squatters under the scheme you have mentioned, by which parties would be required to purchase the whole of their runs?—I do think that most parties in the intermediate districts would gladly avail themselves of an offer of the fee simple of their runs on the proposed terms.

101. Your scheme contemplates that all the squatters in the Colony should purchase the whole of their runs?—It does; and its success depends upon the plan being general.

102. (*By Mr. Suttor.*) You consider that if the lands of the Colony were thrown open for sale at 5*s.* an acre, squatters could not purchase, because they have not funds?—Yes.

103. Do you think that any reason why others who have funds should not be allowed to purchase?—I think it would be unjust that parties who have embarked all their capital, and spent years in the wilderness, should be turned off their runs, unless the public were far more benefited thereby than I can imagine that they will be.

104. You are aware that settlers within the limits have purchased large tracts of country for the purpose of feeding sheep?—They have purchased small tracts here and there, but not large blocks.

105. Not so large as the present stations occupied by the squatters—do you see any reason why the squatters of the present day should be placed on a more favourable footing than the settlers who preceded them?—I think that the squatters who preceded them were under no law whatever, but the settlers of the present day have been under law for many years; hopes have been held out to them, and a larger capital has been employed. The old settlers had, moreover, free (convict) labor in proportion to the quantity of land which they acquired.

106. (*By Mr. Allen.*) Do I understand you to say, because the squatters have rented the land from the Government, therefore they ought to have the right of buying it, to the exclusion of others?—I do not recollect saying so.

107. Is that your idea?—I think when a person has a lease, no one else should have a right to purchase the land, as is proposed in the intermediate districts.

108. Supposing you were to rent me a farm, should I therefore have a right to purchase it to the exclusion of any body else?—I do not think the Government ought to behave quite so harshly as a private landlord may occasionally do. Such a right is frequently stipulated for by lessees in the country; I know several instances.

109. There are, however, two parties to be considered besides the occupant—the landlord and the party who wishes to buy; if you, therefore, are willing to give twice as much for the land as I,

who am the occupant, ought I to retain it?—I have not thought much upon the subject, but I am satisfied that the price I have named is a very high one, as high as any one in his senses, who understands the subject, will give.

110. Would it not be the fairest way to put the land up to auction, and let it fetch what it might?—If you could possibly have a fair auction, an auction solely among gentlemen—*bonâ fide* purchasers.

111. (*By the Chairman.*) You are aware that a good deal of the land of this colony is held upon quit-rents, and that these quit-rents are redeemable?—Yes.

112. Do you think any capitalist would lend much upon the security of these quit-rents?—I am not aware what they amount to, but if sufficient, and regularly enforced, I think so.

113. Are you aware that the quit-rents have not been collected?—I am.

114. (*By Mr. Allen.*) I suppose they would be more difficult to collect beyond the boundaries than within?—I am sure they would be paid—the licence and assessment have been regularly paid.

115. Why have they not been paid within the boundaries?—Because Government did not collect them with sufficient regularity.

116. (*By Mr. Foster.*) You were asked whether you saw any reason why a difference should be made between the present squatter, and the settler who purchased lands formerly; has any choice been afforded to those who have entered into pastoral pursuits, as to where they would have their station?—I think not.

117. Previously, when the price of land was 5*s.* an acre, there was an option afforded to a person whether he would be a squatter or a settler?—I am not much acquainted with the old system, but I have always understood that formerly parties might buy a few blocks here and there, commanding a large tract of country, sufficient for their stock; and also that parties were directly encouraged to purchase land, by the fact of their obtaining convict labor in proportion to the quantity of land purchased by them. It has not been so in my time, and I therefore consider that not even the free grant of my run now would put me on a level with the settler of the olden times.

Monday, August 30, 1847.

John Dobie, Esq., called in and examined:—

1. You are a licensed occupant of land in the Clarence River district?—Yes.

2. How long have you been a proprietor of stock in this colony?—Since 1839.

3. What is your opinion with regard to the policy of raising the minimum upset price of Crown land to 1*l.* an acre?—That price might be a proper one for some parts of the colony, but not for others; in some places land may be worth 1*l.* an acre, in others it is not worth 1*s.*

4. Do you think the measure of fixing the minimum price at 1*l.* was good upon the whole?—Certainly not.

5. Why not?—Because it is not reasonable to suppose that pastoral land can be of the same value as alluvial land.

6. Is there much land in the colony that is worth 1*l.* an acre?—Very little; there are some parts on the banks of navigable rivers, I mean on the navigable parts, where land may be worth 1*l.*

7. What amendment would you suggest with regard to the selling of lands?—I would classify them.

8. How?—Into agricultural and pastoral lands.

9. How would you dispose of them, by free grant or by sale, if by sale at a fixed price or at auction, and if by auction at what minimum price?—I think it should be by Dutch auction.

10. Would you begin with 1*l.*, and go down till you had a bidder?—Yes, it will find its value.

11. You would have 1*l.* the maximum instead of the minimum?—Yes.

12. (*By Mr. Foster.*) What do you consider to be the average value of grazing land?—I do not know; where I come from I do not value it at anything at all; my stations have not paid, that is to say, the expense of the station is not paid by the returns from it.

13. You mean that it does not pay the interest of the outlay?—I, of course, include the interest.

14. At what rate of interest do you calculate?—Six per cent.; when I speak of the expenses I do not include my own private expenses in Sydney.

15. Do you think your station is a fair sample of the stations in the district?—Yes, I am quite sure the stations have not as yet paid in my district, including the interest for the outlay of capital.

16. What quantity of sheep have you in a flock?—From 800 to 1000.

17. (*By the Chairman.*) Do you think sheep farming is unprofitable in the Colony generally, or do you confine your observations to your own district?—I am only speaking of my own district.

18. How many acres are required to feed a sheep in your district?—I should say four or five acres; we are obliged to shift them every now and then.

19. Why is that?—For want of pasture.

20. (*By Mr. Cowper.*) What description of country is it that your flocks feed over?—It is of granite formation, not thickly timbered.

21. Does the soil throw a thick sward of grass?—No, it is in thin patches.

22. What wages are paid in your district?—From 20*l.* to 25*l.*

23. (*By the Chairman.*) You have ready communication with Sydney?—Yes, twice a month.

24. How far are you from water-carriage?—About forty miles.

25. (*By Mr. Foster.*) What lands do you think are worth 1*l.* an acre?—The lands on the lower or navigable parts of the Clarence may be worth 1*l.* per acre.

26. What use could you put them to?—To agricultural purposes; we have tried to grow wheat on the upper part of the Clarence, but have failed, for the last three years, notwithstanding much care and expense have been bestowed.

27. Is it too hot there?—I do not know what is the cause.

28. (*By Mr. Cowper.*) How are you supplied with flour for your men?—From Sydney; nearly the whole of the stations are supplied from Sydney.

29. (*By Mr. Faithfull.*) Can you grow maize there?—Very little; I grow maize on my place, but the fields require manure every year; several parties have tried to cultivate it, but the crops have been

NEW SOUTH WALES.

J. Dobie, Esq.

August 30, 1847.

indifferent, and have not paid them. I am now speaking more of the land above the navigation; I hardly know what land on the navigable parts of the river will do, as they have been but little tried.

30. (*By the Chairman.*) Have you read the Orders in Council with reference to the occupation of the waste lands of this Colony?—Yes.

31. Will you state to the Committee your opinion of them?—I think them judicious in many respects. With regard to the granting of leases, I am certain that that will have a beneficial effect, inasmuch as a great deal more land will be occupied now than formerly; from the certainty that people will have of keeping their stations for a certain time, they will go to the expense of digging wells and making other improvements, and thousands and thousands of acres now unavailable will become occupied from such improvements.

32. You think lands that are now suffered to lie waste will be occupied in consequence of the beneficial operation of these Land Orders?—I am certain of it; I know parties who are now willing to take possession of places which would not have been occupied without these leases, owing to the want of water: under these leases the parties will be willing to dig wells and make substantial improvements, which no one in his senses would have dreamt of before.

33. Can you mention any other good effect that you anticipate from these regulations?—I think that is one of the principal features. Another I may mention, a certainty of tenure, even for a limited period, gives confidence to all operations of a mercantile nature, to which I consider pastoral pursuits to be allied.

34. Do you see any bad effect that they are likely to produce?—I do not; on the contrary, much good, both present and future.

35. I suppose a lease will be of little benefit to you under the terms of these Orders, if your stations do not pay, and you are forbidden to cultivate?—I do not think, so far as I am concerned, that it will, excepting that it will give me an opportunity of introducing artificial grasses, which I would not have attempted to do without a lease. I intend to sow a great part of the run with Dutch clover and different kinds of grasses; the seasons may be more favourable than they have been these last two years; we have had too much rain for sheep farming.

36. You think these regulations are beneficial to the squatter, on account of the certainty which they give him of retaining his station?—I do.

37. Do you think they are beneficial to the rest of the colony,—to those who are not squatters?—I do.

38. Will you state how?—I have stated the reason before, that lands will be occupied which are now lying waste, and thus become as much a public benefit as a private one.

39. Do you not think it a great hardship to the rest of the colony to have these lands shut up from sale?—By no means: if parties choose to remain in towns making money, in mercantile or professional pursuits, without encountering risk or hardship, I think those who expose themselves to the privations of a bush life, and who risk their property, ought to derive some advantage.

40. Are you not aware that formerly it was the practice to turn out the squatter, to make room for the party who purchased the land?—I am quite aware of that, but it was an understanding that the Government would not turn him out, unless the lands were required for purchase. I do not see that these regulations are unjust, either to the present or to the future generation of Colonists, because there are millions of acres in the Colony that are unselected. I am not aware that any Colonist has been prevented taking up stations, if they chose to exercise that energy, and expend the capital necessary for such an undertaking; it is, and has been, open to all of respectable character; as for the assumed hardship of the matter, it may as well be termed a hardship to the colonist for any tradesman coming from England and opening a shop in George-street, or for any professional man of law or medicine practising his profession in any part of the territory; the colonists have not been prevented following these trades or professions, neither have they been prevented going out to occupy the land as squatters. Is the land to remain unproductive till future generations of colonists make their appearance? The granting of favourable and long leases of the waste lands in England, to persons willing to expend both labour and capital to make them productive, may just as reasonably be chargeable against the British Government, as being unfair to future generations of Englishmen, as to say that these regulations are or will be unjust towards present or future colonists.

41. What do you think of the restriction upon cultivation contained in these Orders?—I think it will be perfectly inoperative, but I do not think it advisable for any sheep owner to mix up cultivation with his pastoral pursuits.

42. Do you think if a clause were introduced into each lease, by which the lease would be forfeited in case of cultivation, that the settler would risk it?—I do not. I do not think any settler would care to grow more than was necessary for his own consumption.

43. You do not do that now?—No, but a lease might induce me to make experiments in the way of cultivation.

44. You observe that a pre-emptive right is reserved to the squatter at 1*l.* an acre; do you think that will be exercised?—I think in many instances it may.

45. What would be the inducement to purchase?—To secure the buildings and improvements.

46. Would the buildings be of any use if the run were taken away?—No.

47. With reference to these leases, we formerly looked to the sale of land as the means of bringing in labour; what source are we now to look to for supplying the labour market?—I think the revenue derivable from these leases will increase very considerably in a short time, and I think the present occupants will pay considerably more for their runs than they are now paying, because the boundaries will be more clearly defined.

48. You think they will be restricted within narrower limits?—I do not think that, but that they will have to pay for what they occupy. I estimate that these leases will bring in 100,000*l.* at least.

49. How soon?—In the course of two or three years after the leases are granted.

50. Do you think the rental will increase beyond that?—I cannot say; but I feel pretty confident that it will increase to 100,000*l.* a year when the boundaries have been more accurately defined.

51. That cannot be for a year or two, I apprehend—what are we to do for labour in the meanwhile—do you think there will ultimately be a fund for the purposes of labour?—Not the slightest doubt of it; if you can show to the Government that you have a certainty of deriving a certain sum from these leases, you can easily get a loan to bring out labour, when money matters are improved in England.

52. You would bring out families, I presume—what would you do with them?—Send them into the country to find employment.

53. The men could find employment, no doubt?—Yes, and the women and boys also. I have both employed on my station as hutkeepers.

54. (*By Mr. Cowper.*) Do you not think that a large proportion of whatever revenue might be raised from these leases would be applied to pay the expenses of surveying?—I am not a judge of what would be the expense of a survey.

55. (*By Mr. Foster.*) Would you say that the giving this fixity of tenure to the squatters would rather tend to encourage or to discourage the immigration of families to this Colony?—To encourage it.

56. (*By Mr. Faithfull.*) Where would you settle them?—Throughout the Colony. Half Darling Downs is not settled yet, and there are thousands of acres throughout the Colony which are not occupied, from want of water, where wells might be dug, and a large population supported.

57. (*By Mr. Suttor.*) Do you think the squatter has not sufficient security of tenure, he having possession of the land, without these leases?—No.

58. Did you ever know an instance where a squatter was dispossessed of his run by the Government?—No; but still there is always a degree of uncertainty, which deters people from making improvements.

59. (*By the Chairman.*) Even now there is some uncertainty—I allude to the 9th section of the 2nd chapter, which gives to the Governor the power of granting or selling any of these lands for any "purpose of public defence, safety, utility, convenience, or enjoyment; or for "otherwise facilitating the improvement and settlement of the colony?"—If the Government carry out these regulations in the same liberal spirit with which they are intended, and as I hope they will do, there is not much danger to apprehend.

60. Are you not dependant upon their liberal spirit?—I am quite willing to place myself in the hands of the Government. The Government will not act capriciously.

61. The power is, as I apprehend, given to an individual to dispose of these lands—to the "Governor or Officer for the time being administering the Government of the said Colony?"—I do not so understand the regulations.

62. Do you think it is a matter of sound policy to have such power put into the hands of an individual—is it not dangerous to the liberty of the people?—I do not think so, where there is not only a Governor, with an Executive Council, but a Representative body also.

63. Does it not tend to give Government an undue influence in the representation?—I do not hink so.

NOTE.—The Assistant Short-hand Writer having neglected to furnish a Report of the Evidence of Matthew Henry Marsh, Esq., of New England, who was examined on the 13th August last, until on or about the 1st instant, when it was found impossible to transmit it to Mr. Marsh for revision without causing too great a delay in the publication of the Report; and there also being reason to believe that the Report as furnished by the Assistant Short-hand Writer was imperfect and incorrect, it has consequently been omitted.

The Evidence of Edward Cox, Esq., of Mulgoa, who was also examined on the 13th August, has been omitted for similar reasons.

Legislative Council Office,
Sydney, December 15, 1847.

WM. MACPHERSON,
Clerk of the Council.

(No. 28.) No. 10. No. 10.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY. Answered July 14, 1848, p. 133.

Government House, Sydney,
January 28, 1848.

MY LORD, (*Received June* 1, 1848.)

IN my Despatch of the 26th December, 1847, No. 261, I recommended to your Lordship an amendment of Her Majesty's Order in Council of the 9th March, 1847, the object of which was to confer on those licensed occupants of Crown lands, whose runs or portions of runs have been brought by the terms of the said Order within the class of settled lands, the same allowance for improvements as is guaranteed to lessees of runs on the expiration of their leases under the second and third conditions of the 15th section of Chapter II. of the Order. Page 50.

I have now to bring under your Lordship's consideration another class of cases, to which it appears to me to be expedient and just that a similar provision should be extended.

Under the system of occupation which was in force before the issue of the Order in Council, persons have been licensed to occupy small portions of land, not as runs for grazing purposes, but for the establishment of inns, stores, and other places of business for the carrying on of retail trade, or for the accommodation of passengers. In many of these cases the buildings and other improvements on the holdings are of considerable value.

From the opinion of the law officers of this Government, of which a copy will be found appended to the enclosed minute of proceedings of my Executive Council, it appears that such occupants as I have described cannot obtain leases of their holdings under the Order in Council, and that they are thus debarred from the privileges of a pre-emptive right, or of receiving an allowance for their improvements on the sale of the land to other persons. 18th November, 1847. 18th January, 1848.

NEW SOUTH WALES.

I beg, therefore, to recommend that Her Majesty's Order in Council, above referred to, should receive such modification as will confer on all licensed occupants of Crown lands, of the description in question, the same allowance for improvements as is guaranteed to the lessees of runs, on the expiration of their leases, by the second and third conditions of the 15th section of Chapter II. of the Order in Council.

The persons who will be entitled to the benefit of this allowance, should it be conceded by Her Majesty in Council, will be not only those whose holdings are situated in the "unsettled" and "intermediate" districts, as now defined, but those also whose holdings are within such portions of the "settled districts" as, before the new classification under the Order in Council were beyond the boundaries of location, as they were termed, or, in other words, beyond the limits within which lands were open to purchase; and it will be necessary that the terms of the regulation should be framed accordingly.

Until the receipt of your Lordship's decision on this proposal I shall allow the continued occupation of the premises to which it refers under yearly licence, and I shall refrain from offering the lands for sale.

Should the suggested modification of the Order in Council be made, I shall probably find it convenient to put up for sale all the lands to which it will apply within a short time after the new rule shall have come into effect.

It may be proper to explain that it has not been deemed necessary to propose the extension of the indulgence to parties who have improved lands which, previously to the issue of the Order in Council, were situated *within* the boundaries of location, because it was competent for them at any time to have applied to have the land they occupied put up for sale, and consequently to have acquired the fee-simple of it before they proceeded to effect improvements. Such, however, was not the case with respect to lands beyond the boundaries of location; and this constitutes the difference in the two cases, which justifies, I consider, the indulgence proposed for the latter.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. 1 in No. 10.

Enclosure 1 in No. 10.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 18th November, 1847, and the 18th January, 1848, relative to a proposed Allowance for Improvements to certain Licensed Occupants of Crown lands, who are precluded from obtaining Leases thereof, by the terms of the Order in Council of the 9th March 1847.

Extract from Minutes, No. 47/26, dated 18th November, 1847.

Members present:—

His Excellency the Governor.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

His Excellency the Governor lays before the Council a letter from Mr. J. B. Rundle, stating that he was about to purchase a store built on Government land at Armidale, and requesting to be informed whether that land will be subject to be sold by auction without any compensation for improvements, or whether he would be allowed to purchase it from the Government without its exposure to sale by auction.

The Council recommend that this application be transmitted to the Crown law officers with a request that they will advise whether, with reference to the terms of the Order in Council, and especially the first clause of the second chapter thereof, those persons, such as storekeepers, innkeepers, &c., who are at present licensed occupiers of Crown lands situated in unsettled or intermediate districts, but who use the land for other than pastoral purposes, are entitled to demand and to obtain leases of their holdings under the 11th Section of Chapter II. of the said Order? and in such case, whether they would be entitled to the right of pre-emption or value of their improvements conferred upon lessees of runs for pastoral purposes? and if not, whether there is any other way of legally securing to them the value of the improvements which they have effected on their respective holdings?

Extract from Minutes, No. 4811, *dated* 18*th January*, 1848.

Members present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

His Excellency the Governor lays before the Council the opinion of the Crown Law officers on the questions proposed on the 18th November last, with reference to the application of Mr. Rundle, which was then brought under the Council's consideration.

From this opinion, it appears that persons, such as innkeepers, storekeepers and others, who are at present licensed occupants of Crown lands in the squatting districts, but whose holdings are not "runs for pastoral purposes," cannot obtain leases thereof under the Order in Council, and that they are thus debarred from the privileges of a right of pre-emption or of receiving the value of their improvements on the sale of their holdings to other persons.

The Council advises that, as a temporary measure for the security of the persons in question, the Governor should withhold the lands from sale, and grant annual licenses for their occupation as heretofore, in the manner suggested by the law officers. The Council, however, do not consider this course to be desirable as a permanent arrangement, but would suggest the establishment of a regulation in respect to this class of holdings, which, on the sale of the land, will give to the occupier the value of his improvements out of the price obtained by the Government. The Council accordingly recommend that His Excellency should propose to the Secretary of State such a modication of the Order in Council as will confer on all *licensed occupants* of Crown lands of the description in question, whether their holdings be situated in "unsettled" or "intermediate district," or in those portions of the "settled districts," which before the coming into effect of the Order in Council, were beyond the boundaries of location, the same allowance for improvements as is guarateed to lessees of runs on the expiration of their leases by the second and third conditions in the 15th Section of Chapter II. of the Order in Council.

The Council concurs in the opinion of the law officers that the information sought by Mr. Rundle should not be afforded to him.

Francis L. S. Merewether, Clerk of the Council.

Enclosure 2 in No. 10.

Encl. 2 in No. 10.

Appendix to Proceedings of the Executive Council, relative to a proposed Allowance for Improvements to certain Licensed Occupants of Crown Lands.

No. 1.

Mr. J. B. Rundle to the Colonial Secretary.

Sir, Mussel Brook, Oct. 4, 1847.

Being about purchasing a premises, now on Government land, and kept as a store, at Armidale, in the district of New England, I most respectfully beg leave to solicit your information whether, under the new land regulations, the land on which the said premises now stand would be subject to be sold by public competition without remunerating me for the improvements thereon, or whether I should be allowed to purchase the land from Government, without being sold by public auction?

I am informed that Government contemplates laying this place, "Armidale," out as a township; if so, would the premises be subject to be sold with other portions of the township without the purchaser paying for the buildings?

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) J. B. Rundle.

No. 2.

Law Officers to the Colonial Secretary.

Sir, Attorney-General's Office, January 6, 1848.

We have the honour to acknowledge the receipt of your letter of the 23rd ultimo, transmitting the enclosed communication from Mr. J. B. Rundle, inquiring whether he will be allowed compensation for improvements on certain Crown lands at Armidale, and requesting, by direction of his Excellency the Governor, we will advise whether, with reference to the terms of the Order in Council of 9th March, 1847, and especially the first clause of the second chapter thereof, those persons, such as storekeepers, innkeepers, &c., who are at present licensed occupiers of Crown lands, situated in unsettled or intermediate districts, but who use the land for other than pastoral purposes, are entitled to demand and obtain leases of their holdings, under the 11th Section of Chapter II. of the said Order; and, in such case, whether they would acquire the right of pre-emption, or an allowance of the value of their improvements conferred upon leases of runs for pastoral purposes; and, if not, whether there is any other way of legally securing to them the value of the improvements which they have effected on their respective holdings.

NEW SOUTH WALES.

In reply, we have the honour to report that, in our opinion, persons such as storekeepers, innkeepers, &c., who are at present licensed occupiers of Crown lands situated in "unsettled" or "intermediate" districts, but who use the land for other than pastoral purposes, or, to speak more strictly, whose occupations are not of "*runs*" for "*pastoral purposes*," are not entitled to demand and obtain leases of the land held by them, and that it is not competent to the Governor, under the said Order in Council (by Section 1 of Cap. II.) to grant such leases.

We, however, think that, as the land will not be within the operation of the Orders authorising the granting a lease of it, either as a now licensed holding or a new run, it will be in the power of the Governor to grant annual licenses of it as heretofore, and to withhold it from sale as long (if at all) as, under the circumstances of each particular case, he may think proper.

With reference to the letter of Mr. Rundle, we beg leave to observe that, as the writer has not yet acquired any interest in the property, and stands in no relation to the Crown in respect of it, but is a mere stranger contemplating a purchase in the event of a favourable answer being received to his speculative inquiry, it may be very questionable whether the information sought should be afforded him. If the application had proceeded from the present occupant, it would have been entitled to consideration, but the result of an answer to a person in the situation of Mr. Rundle would be certainly to establish an inconvenient precedent as regards the Government, and might, in the supposable event of its being favourable, operate to secure to him an undue advantage over the present occupant, by putting him alone in possession of information upon which the value of the property would in a material degree depend.

We have, &c.,

(Signed) JOHN H. PLUNKETT, Attorney-General.
The Hon. the Colonial Secretary, Sydney. W. M. MANNING, Solicitor-General.

No. 11. (No. 84.) No. 11.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney,
April 3, 1848.

MY LORD, (*Received August* 7, 1848.)

Page 24.
For Order in Council, March 9, 1848, *vide Sessional Paper, House of Lords, No.* 114, *of* 1847.
Ditto, House of Commons, No. 252, *of* 1847.

March 31, 1848.

WITH reference to my Despatch, No. 239, of the 6th December last, in which I informed your Lordship that I, in conjunction with my Executive Council, was engaged in framing regulations for the occupation of Crown lands within the settled districts, in accordance with the 4th chapter of Her Majesty's Order in Council, of the 9th March, 1847, I have the honour to forward herewith a copy of the regulations which, with the advice of the Council, I have established, subject to your Lordship's approval.

I also enclose a Minute of the Executive Council in reference to the regulations.

As this Minute affords all the information which appears to me to be requisite for your Lordship's information as to the general principles on which the regulations have been framed, it is unnecessary that I should trouble you with any further remarks from myself on the subject.

I have, &c.
(Signed) C. A. FITZROY.

The Right Hon. Earl Grey,
&c. &c. &c.

Encl. 1 in No. 11.

Enclosure 1 in No. 11.

Colonial Secretary's Office, Sydney,
March 29, 1848.

Occupation of Crown Lands within the Settled Districts.

In pursuance of Her Majesty's Order in Council, of 9th March, 1847, his Excellency the Governor, with the advice of the Executive Council, has been pleased to establish, subject to the approval of the Right Hon. the Secretary of State for the Colonies, the following regulations for the occupation of Crown lands within the settled districts of the colony, as they are now or may hereafter be defined.

Holders of purchased lands may pasture stock on vacant Crown lands free of charge.

2. The holders of purchased lands within the settled districts will be permitted to pasture their stock, free of charge, on any vacant Crown lands immediately contiguous to their respective properties, provided they do not erect any hut or building thereon, or clear, enclose, or cultivate any portion thereof; but it is to be distinctly understood that such permission will in no way interfere with the right of the Government at any time to dispose of the lands either by sale or by lease.

This permission constitutes only a *commonage* right.

3. The permission to pasture stock on vacant Crown lands, free of charge, will not carry with it any other than a commonage right, to be enjoyed alike by all the holders of adjacent purchased lands. Persons desiring to secure the exclusive right of pasturage over any par-

ticular Crown lands, must obtain a lease by purchase in one or other of the modes hereinafter described.

4. Within the settled districts lands will be let for pastoral purposes only, on annual lease, in sections of 640 acres each, as charted in the Surveyor-General's office, and at a yearly rent not lower than 10*s*. per section.

Lands will be let on annual lease, and for pastoral purposes only.

5. No portion of land, consisting of less than 640 acres, or one square mile, will be let on lease, except in special cases, which may render expedient a departure from this rule; and in any case where there is a broken section, with water frontage, the section behind it will be added to the lot.

Size of lots.

6. No sections lying either in whole or in part within the distance of five miles from either of the cities of Sydney or Melbourne, or within the distance of two miles from any town shown by the last census for the time being to contain more than 1000 inhabitants, nor any lands set apart as the sites of towns or villages, or measured for sale as "special country lots," nor any of the lands comprised within the church and school estates, will be open to lease under these regulations.

What lands will not be let.

7. The annual leases issued under these regulations, will be for the calendar year commencing on the 1st day of January; and all leases granted, whether taking effect from the first day of the leasing year, or from any subsequent date, will alike expire on the 31st December.

Duration of lease.

8. The leases will carry with them the exclusive right of occupancy of the land for pastoral purposes only, during the period they shall remain in force; but a clause will be inserted in each lease, permitting the lessee to cut such timber, with the exception of cedar, as may be required for domestic uses, for firebote, fencing, stockyards, or other conveniences for the use of the land, for the purposes specified.

Lands demised for pastoral purposes only; but with permission to cut timber.

9. The leases will not be assignable, nor shall any portion of the lands held thereunder be assigned or sub-let, under penalty of absolute forfeiture of the lease.

Leases not to be assigned.

10. Lessees of lands under these regulations will not be entitled to any compensation whatsoever for any improvements they may effect on the lands.

No compensation for improvements.

11. The lands included in any lease will be open to purchase under the ordinary regulations, and in the event of their being sold, or required for any public purpose, must be surrendered, as heretofore, by the lessee, upon his receiving one month's notice; but in such case, the balance of the price of the lease for the time it has to run will be refunded to him.

Lands open to sale. If sold, lease to be surrendered.

12. Subject to the approval of his Excellency the Governor in each case, the leases held under these regulations may be renewed at the same yearly rent as that paid for the preceding year. Such renewals will be ordinarily sanctioned by the Governor, unless the lands be required for sale, or for any public purpose, or for the satisfaction of any new claims which may arise under the pre-emptive right hereinafter conferred on purchasers of Crown lands. It is, however, to be distinctly understood, that his Excellency reserves to himself the full power of periodically revising and altering the terms on which the leases will be granted or renewed, as the public interests may from time to time appear to him to require.

Leases renewable annually.

Terms subject to revision.

13. Persons desiring to renew their leases under the preceding clause, must make application to the Colonial Secretary, at Sydney, or to the Superintendent of Port Phillip, at Melbourne, if the lands be situated in that district, not later than the 31st August, in the year preceding that for which the leases will have effect, and if allowed to do so, must pay the rent into the Colonial Treasury, not later than the 30th day of September in the same year.

Period for renewal of leases.

14. All leases for the ensuing year which shall not be renewed by the 30th of September preceding, will, whether applied for or not, be put up to auction, in or about the last week in the month of November in each year, in the manner described in a subsequent part of these regulations.

Leases not renewed will be put up to auction.

15. No lease which has once been advertised for sale can be obtained by any person until it has been submitted to competition.

Leases once advertised, obtained only by competition.

16. The holders in fee simple of any lands within the settled districts, whether acquired by purchase or grant, will be allowed, subject to the conditions hereinafter prescribed, to obtain leases of any vacant Crown lands adjacent to their respective properties, without competition, at the fixed price of 10*s*. per section of 640 acres, and to the extent of three times their own purchased or granted lands, if there be so much vacant Crown land available. It is, however, to be understood that the rule above laid down that land will not be let in portions less than 640 acres will not be departed from, in order to make up the exact quantity which an individual may be entitled to claim under this clause; and no person will be deemed entitled to the pre-emptive right hereby conferred who does not hold purchased or granted lands in one block to the extent of at least one section.

Pre-emptive right to holders of land in fee simple.

Even sections only will be computed.

Less than 640 acres will not confer pre-emptive right.

17. If the holders of land in fee simple desire to lease a greater number of sections than they are entitled to claim under the pre-emptive right conferred by the preceding clause, they can only do so by purchase at auction.

Additional land obtained only at auction.

18. In cases in which the same portions of land may be claimed by more than one party under the pre-emptive right conferred by clause 16, the Government will, at the expiration of the term allowed for preferring such claims, announce to each claimant the names of his competitors, in order that he may arrange with them respecting the division of the lands in the manner pointed out in the next clause.

As to lands claimed by more than one party.

19. If there be more than two claimants, the division of the lands amongst them may be settled by private arrangement; and on the result of such arrangement being communicated to the Government within the time prescribed in the following clause, in a document signed by all the contending parties, the lands will be apportioned and let accordingly; but if there be only two claimants, the question at issue between them may be determined by arbitration in the manner following: each party shall name an arbitrator, and the two arbitrators shall have

Where more than two claimants, claims to be settled by private arrangement.

If only two, claims to be referred to arbitrators.

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power, if necessary, to elect an umpire, and according to the award of such arbitrators or umpire the land in dispute will be apportioned and let. In considering the respective claims of the contending parties, it is desirable that the arbitrators and umpire should be guided by the extent of purchased or granted land held by each, so as to apportion the vacant Crown land in reference to such extent,—by the previous occupation of the land in dispute according to the usage of the colony as part of the run of either of the parties,—and the access to water for its beneficial occupation.

If no division agreed upon, leases will be put up to auction.

20. If at the end of one month from the date of the letter announcing to the several claimants the names of their competitors, the Government shall be uninformed of a division of the lands having been made either by agreement or by arbitration, the leases of the lands so circumstanced will be offered for sale by auction, and the public admitted as competitors for the same.

Holders of granted lands to enjoy the same privileges as holders of purchased lands.

21. The holders of granted lands within the settled districts, on which the quit-rent has been redeemed, will, for the purposes of these regulations, be placed on the same footing in all respects as the holders of purchased lands. The holders of granted lands on which the quit-rent has not been redeemed are not considered admissible, under the terms of the Order in Council, to the privilege of pasturing their stock on Crown lands free of charge as above described, but they will be allowed to exercise the pre-emptive right mentioned in clause 16.

As to lands of the settled class under squatting licence.

22. Lands which have been brought by the Order in Council within the settled class, but which have been hitherto held under squatting licences for pastoral purposes, will be let to the present licensed occupants thereof, on yearly lease, at the fixed rent of 1*l.* per section, so long as they shall not be required for sale or for any public purpose, or be applied for on lease by any holder of purchased lands in the immediate neighbourhood. But whenever any holder of purchased land in the immediate neighbourhood shall either put forward his claim to the number of sections which he may be entitled to rent under the pre-emptive right conferred by clause 16 of these regulations, or shall make application for a lease of any additional sections to be offered for sale by auction, such sections will not be relet to the previous occupant, but will be withdrawn from his holding, in order that they may be demised to the person claiming the exercise of his pre-emptive right respecting them, or be let by auction, as the case may be. In respect, however, to any sections thus taken out of the previous occupants holding, in order that the leases of them may be offered for sale, such previous occupant will be allowed to continue to use them for pastoral purposes until the day of sale, and in the event of their not being then purchased, to renew his lease for the current year at the rate above mentioned.

Lands not charted in sections how to be let.

23. Any lot of land within the meaning of the preceding clause, which may not have been charted in sections in the Surveyor-General's Office, will be let, until so charted, to the present licensed occupant thereof in one block, the amount of rent being determined by the computed number of sections therein contained, according to an estimate to be submitted by the occupant, and approved by the Surveyor-General, or the surveyor in charge at Melbourne, accordingly as the lands may be situated in the Sydney or the Port Phillip district.

Sections containing improvements, let only to previous occupant in certain cases.

24. Of the class of lands referred to in Clause 22, no sections containing valuable improvements, nor any of the sections contiguous thereto, will, for the present, be open to lease under these regulations, to any other persons than the licensed occupants thereof.

Time and mode of claiming exercise of pre-emptive right.

25. Persons desirous of exercising either of the pre-emptive rights conferred by Clauses 16 and 22 of these regulations, will be required to make application accordingly, in the one or other of the forms annexed (A or B), as the lands may be of the one or other of the classes referred to, describing as accurately as possible the sections which they desire to rent, and also specifying the purchased or granted lands, or the licensed runs, in respect of which they claim to exercise the pre-emptive right. These applications must be lodged at the Surveyor-General's Office in Sydney, or at the office of the surveyor in charge at Melbourne, on or before the 31st day of August in the year preceding that for which the desired leases will have effect.

Leases obtained by pre-emption will be notified.
If rent not paid within one month, they will be put up to auction.

26. All leases accorded by the Government under the pre-emptive rights conferred by clauses 16 and 22 of these regulations, will be notified in the "Government Gazette;" and if, within one month from the date of such notification, the rent for the same shall not have been paid into the treasury, the leases will be offered for sale by auction.

Lands not taken by pre-emption will be let at auction.

27. All lands, to the leases of which no pre-emptive right shall have been exercised within the periods above specified, will be open to lease, and be offered for sale by auction, on the application of any person requiring the same.

Application for sale of leases by auction.

28. Applications for the lease, at auction, of particular portions of Crown lands are to be addressed as heretofore, to the Surveyor-General in Sydney, or to the surveyor in charge at Melborne, in form annexed, marked C.

General sale in November of each year.

29. In or about the last week in the month of November in each year, there will be a general sale, by auction, at which will be put up all leases for the ensuing year which may have been applied for under the preceding clause, or which may have been claimed, but not obtained, under the pre-emptive right, or of which a right of renewal may have been granted, but not exercised, as well as any leases which the Government may think it expedint to bring forward at its own instance.

Special sales on application.

30. Leases applied for under clause 28, subsequently to the general sale, will be put up at auction as demanded,—the term of the lease in every such case being the unexpired portion of the calendar year, as explained in clause 7.

One month's notice of each sale.

31. No sale of leases under these regulations will take place without one month's notice thereof having been given by advertisement in the "Government Gazette."

Leases sold at places of petty sessions.

32. The sales will be held at the principal places of petty sessions of the police districts in which the lands may be respectively situated.

33. The upset price of each lot will be 10*s.* per section of 640 acres; or 5*s.*, if half of the current year shall have expired. — Upset price.

34. The Government reserves to itself the right to refuse the bidding of any one, as well as to withdraw any lot from sale. But this right will never be exercised, except for a sufficient and assignable cause. — Bidding may be refused, or lot withdrawn.

35. The full price bid for each lot must be paid down on the day of sale; failing which, the land will be leased on application, as described in clause 38. — Full price to be paid down.

36. As early as possible after the day of sale, leases will be issued from the Colonial Treasury, at Sydney or Melbourne, accordingly as the lands may be situated in the one or other of those districts, to those persons who have duly paid their purchase money. — Leases issued from the Treasury.

37. Any lot of land, the lease of which may have been offered for sale at auction and not bid for, may be obtained on lease by any person of approved character, on payment at the Colonial Treasury, of the upset price of 10*s.* per section, or of half that price, if half the current year has expired. — Lots not bid for obtained at upset price.

31. The foregoing rule will also apply to those lands, the leases of which have been bid for, but the price of which has not been paid on the day of sale. In such case, however, the sum to be paid for the lease will be, not the upset price, or its half, but the highest price bid for the lot at the sale, or its half, if half of the year shall have expired. — Lots of which price not paid obtained at that price without competition.

39. Lots open to purchase under either of the two preceding clauses, but not taken, may be put up again at auction, either on the application of individuals, or at the instance of the Government. — Lots not purchased may be again put up.

40. The first leases issued under these regulations, will be for the year commencing on the 1st January, 1849. — Leases first issued for year commencing 1st January, 1849.

41. All licences now held, in terms of the regulation of the 21st August, 1841, which will expire during the present year, may be renewed for the remainder thereof, on payment of rent at the same rate as that paid for the existing licences, such payment to be made on taking the licences up at the Treasury. — As to lands held under existing licences.

42. It is distinctly to be understood, that as soon as these regulations shall have been brought into effect, all persons who may be found in occupation of Crown lands within the settled districts, contrary to the plain intent and meaning of these regulations, will be immediately proceeded against under the provisions of the Act of Parliament, 9 and 10 Vict., cap. 104. — Persons occupying Crown lands contrary to these regulations will be proceeded against.

43. The regulations for the occupation of Crown lands within the boundaries of location, dated 21st August, 1841, are hereby cancelled. — Regulations of 1841 annulled.

By His Excellency's Command,

E. Deas Thomson.

Schedule A.

Form of Application to be used by the holder of purchased or granted Lands in the Settled Districts, when claiming to exercise the pre-emptive right.

Place *

Date

Sir,¶

In pursuance of the Regulations of 29th March, 1848, respecting the occupation of Crown lands within the settled districts, I do hereby apply to be allowed Leases of the several sections of Crown land hereunder described, at the fixed rent of ten shillings per section.

The land, in virtue of which I claim to exercise a right of pre-emption, is situated as follows, and is now in my occupation, namely:—

County of , parish of , situated †

containing acres, being the Land ‡ to §

and for which a deed of grant has issued in favour of ‖

I have the honour to be,

Sir,

Your most obedient Servant,

To ¶

Description of the Sections applied for.

* State nearest Post Town.
† State general situation of the land.
‡ "Sold" or "Granted," as the case may be.
§ State name of Purchaser or Promisee.
‖ State name of Grantee.
¶ To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.

Schedule B.

Form of Application to be used by the holder of a Squatting Licence, in respect to portions of his Run, situated in Settled Districts.

Place *

Date

Sir,

In pursuance of the Regulations 29th of March, 1848, respecting the occupation of Crown lands within the settled districts, I do hereby apply to be allowed leases of the several sections of Crown lands hereunder described, at the fixed rent of one pound per section.

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The Run, in virtue of which I claim to exercise a right of pre-emption, is as follows, and is now in my licensed occupation, namely:—

Commissioner's district
Name of Run
General locality

I have the honour to be,
Sir,
Your most obedient servant,

To †

State as accurately as possible the sections required according to the charting in the Survey Office.
If the lands be not charted in sections, the boundaries of the entire extent of land claimed should be given, with an estimate of its area, in sections or square miles.

* State nearest Post Town.
† To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.

SCHEDULE C.

Form of ordinary Application for a Lease of Crown Lands within the Settled Districts.

Place *
Date

SIR,

IN pursuance of the Regulation of 29th March, 1848, respecting the occupation of Crown lands within the settled districts, I have the honour to request that the leases of the portions of Crown lands hereunder described may be put up to public auction.

I have the honour to be,
Sir,
Your most obedient servant,

To †

Description of the Lands referred to.

County of
Parish of
Situated ‡
and Bounded, &c. †

* State nearest Post Town.
† To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.
‡ State general locality.
§ State the boundaries as accurately as possible, with reference to section lines.

Encl. 2 in No. 11.

Enclosure 2 in No. 11.

MINUTE of the EXECUTIVE COUNCIL explanatory of the Provisions contained in the Regulations framed by them respecting the occupation of Crown Lands in the "Settled Districts" of the Colony.

Extract from Minute No. 48/8, *dated* 31*st March*, 1848, *and confirmed by the Council on the* 3*rd April*, 1848.

Members present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

WITH reference to the Minute of Proceedings on the 13th instant, which has just been read and confirmed, and which contains the advice of the Council that the Code of Regulations then finally adjusted by them for the occupation of Crown lands within the settled districts should be issued, the Council desire that the following minute, explanatory of the principles on which those regulations were framed, may now be recorded.

By the 4th chapter of Her Majesty's Order in Council of the 9th March, 1847, under the authority of which the regulations now issued have been framed, the Governor is empowered to grant leases of lands within the settled districts for terms not exceeding one year, and for pastoral purposes only. He is also empowered to make general rules, under which the holders of purchased lands within the settled districts may be permitted to pasture their stock free of charge on any adjacent Crown lands; provided that this privilege shall in no way interfere with the right of the Government to dispose of the land either by sale or by lease for one year.

It is not discernible from the terms of the Order above cited, whether in conceding to the holders of purchased lands the privilege of pasturing their stock free of charge over adjacent vacant lands of the Crown, it was contemplated that such vacant lands should be parcelled out amongst the adjoining proprietors so as to confer on each an exclusive right of pasturage over a particular portion, or whether it was merely intended that they should have the use of them in common. The Council have therefore felt themselves at liberty to lay down the rule, which appears to them to be the most simple and the most expedient, that without any formal licence to that effect the mere holding of purchased lands shall carry with it the right of commonage over any adjacent Crown lands which may be unlet, but that the exclusive occupancy of any

particular portions of land shall only be acquired by the purchase of a lease thereof from the Crown.

Seeing, however, that except in particular situations, such as the neighbourhood of towns where lands have been sold in small allotments, a commonage right is but of little value in this colony, and fully appreciating the policy of allowing to purchasers of lands the use of adjoining Crown Lands for pasture at an easy rate, the Council have provided that every holder in fee simple of 640 acres or more in one block shall be allowed to obtain, without competition, at the minimum rent allowed by the regulations, the lease of any adjoining Crown lands which may be available to an extent not exceeding three times the area of his fee simple estate. Clause 16.

The minimum price at which lands can be obtained on leases has been fixed, it will be observed, at a lower rate than any which has hitherto been adopted in the colony. The minimum, which was previously 1*l.*, was in the year 1840, raised to 5*l.* per section; but experience has proved that the former rate was more productive of revenue, and a return to it was in contemplation before Sir George Gipps' retirement from the Government, and was only postponed in consequence of the expected arrival of the general regulations of Her Majesty's Government respecting the occupation of Crown lands in this colony. Those regulations having restricted the use of lands held under lease in the "settled districts" to pastoral purposes, instead of allowing them to be applied to any purposes as was the practice before, the Council have thought it expedient and equitable, as well as in accordance with what appears to them to be the spirit of the Order in Council, that the minimum rent should be assimilated to that fixed for lands in the intermediate and unsettled districts. They have accordingly adopted the minimum of 10*s.* per section. This reduction, it is hoped, will not merely tend to satisfy the residents in the settled districts who view with jealousy the concessions made to what is termed the Squatting Interest, but will also materially augment the revenue. The pre-emptive right granted by the 16th and 22nd clauses of the regulations, the exposure of all leases not taken under the pre-emptive right to sale by auction, and the power of obtaining any leases put up but not sold at auction by simple application at the Treasury, may be expected by their conjoint operation, coupled with the low minimum and the prospect of a yearly renewal of a lease when once granted, to cause nearly all the available land in the "Settled Districts" to be taken on lease, in which case the yearly revenue will reach a much larger amount than any hitherto obtained from this source. Clause 4. Clauses 37 and 38. Clause 12.

In allowing the pasturage of lands free of charge, the Governor is restricted by the Order in Council to "holders of purchased lands." It is considered that holders of lands granted subject to quit rent, who have redeemed the quit rent by payment of the established fine, may be regarded as purchasers of land within the meaning of the order, but not to those who have not redeemed their quit rent. The former are therefore admitted to, and the latter are excluded from, the privilege of pasturing their stock on vacant Crown lands free of charge. Both are, however, alike admitted to the privilege of obtaining leases without competition to the extent of three times the area of their granted lands under the provision above referred to. Whether the Order in Council contemplated the allowance of any special privilege to holders of granted lands on which the quit rent has not been redeemed, appears to the Council to be doubtful, but they have not thought it worth while to draw a distinction which would occasion much dissatisfaction without any material advantage either to the general interest or to the public revenue. Clause 21. Clause 16.

In respect to those lands which, before the passing of the Order in Council, were beyond the boundaries of location and were held under squatting licenses, but which are now placed within the settled class, a special provision has been introduced. The present occupants of such lands will be enabled to obtain leases of them from year to year at a fixed rent of 1*l.* per section, so long as they shall not be required for sale, or be demanded on lease by holders of purchased lands in the neighbourhood. The rent in this case, is fixed at 1*l.* instead of 10*s.*, because, whilst the persons benefited by this provision will, on the one hand, be exempt from the assessment on stock levied on occupants in the unsettled and intermediate districts, they will, on the other hand, receive the boon of a lease obtained under a pre-emptive right, without having expended any of their capital in the purchase of land. Clause 22.

Of lands which were previously beyond the limits of location, but have been placed by the Order in Council in the "settled districts," no sections containing valuable improvements will, for the present, be open to lease by any other persons than the present licensed holders thereof, in order that their occupation may not be disturbed until the receipt of the decision of Her Majesty's Government on the recommendation of the Council that an allowance for improvements should, in such cases, be made to the occupants on the sale of the lands. The contiguous sections are also reserved in order that the present occupants in every case, should they become the buyers of the improved sections, may be enabled to obtain leases of such of the adjoining sections as they may select under the preemptive right conferred on purchasers by the regulations.

Considering it to be most desirable that lands rented under these regulations should be at any time available for purchase, if applied for, the Council have retained the provision, which existed in former regulations respecting the letting of lands within the boundaries of location, that the leases shall be determined after one month's notice and the lands be surrendered accordingly. Clause 11.

In the framing of the regulations which form the subject of this minute, the Council have not failed to consider, with all the attention due to so high an authority, the suggestions offered by the Superintendent of Port Phillip, when the original draft was submitted to his perusal. The modifications introduced by the Council as the rules underwent their revision, will in

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Paper No. 1 appended.

many respects, it is believed, satisfy the views of the Superintendent; but there are some points in his honor's paper, which was laid before them on the 5th February last, on which they have not been able to adopt his opinions, and on which, therefore, they think it necessary to comment.

Mr. La Trobe objects to the establishment of the rule, as one to be of uniform application, that lands in the "settled districts" shall be let only by the section. On this subject Mr. La Trobe remarks, that "a large portion of these lands, whether upon the coast or within the prescribed area adjacent to the towns, are not only unsurveyed, but, from their decided pastoral character, have been long subdivided into regular stations, and been held up to the present time under ordinary squatting licences. Many of the stations so situated, or lying partly within and partly without the boundary of these settled lands, are of very considerable dimensions, and return in certain instances as much as 10,000 sheep, or 1500 to 2000 head of cattle. Under such circumstances it appears to me that it is quite impossible to apply such a system of occupation as is proposed," &c.

It does not appear to the Council to be in any way a consequence of the system of leasing by sections that the occupancy of the runs described by Mr. La Trobe in the passage above quoted should be interfered with, the only difference being that, instead of being let in one block at a rent of 10*l.* for the block, with an additional sum of 2*l.* 10*s.* for every 1000 sheep above 4000 which the run will carry, each run will be let according to its sectional contents at a certain rate per section. By allowing, therefore, to the present occupants of such runs the pre-emptive right conferred by clause 22 of the Regulations, the Council consider that they have removed all valid objections on this score to the system proposed.

In respect to the further objection, however, that a large portion of the lands in the Port Phillip district which have been brought by the Order in Council within the "settled" class are unsurveyed, the Council have to observe that the accuracy of a detailed survey is not necessary for the purpose of letting the lands by the section for the term of one year. In this portion of the colony, where much of the country is, perhaps, of a far more "decidedly pastoral "character" than that described by Mr. La Trobe, the practice has been for many years to let lands within the boundaries in no other way than by the section, and a large number of the sections let have not been surveyed. All that is requisite is that the leading features should be surveyed so as to obtain certain fixed points by which sectional lines may be charted in the Survey-office; and according to such sectional lines the lands can be described, as charted, with sufficient accuracy for a lease for one year, and for pastoral purposes only. The Council have, however, inserted a provision, which will obviate any real difficulty in this matter, that where lands are not charted in sections they may be let, until so charted, in one block, at a rent determined by the estimated number of sections comprised in the block.

Clause 23.

Mr. La Trobe further objects to the letting of land by sections on the ground that it will create an inconvenient distinction between portions of the same run which may lie partly within and partly without the boundary of the settled districts. It is, however, to be observed that this distinction is not made by the Regulations of this Government; but it is one established by Her Majesty's Order in Council. That Order has provided that one side of the boundary line, dividing the "settled" from the "intermediate" and "unsettled districts," the lands shall be let for one year, and for pastoral purposes only, and that on the other side they shall be let for a term of years, with the right of erecting buildings and making improvements, and of bringing under cultivation a quantity of the soil sufficient for the supply of the lessee's own establishment. The line having been thus drawn by superior authority, the Council consider that the more distinctness can be given to it the better; and on this ground they hold it to be rather an advantage that, on the one side, the lands should be let by the section, and on the other by the block, even though the lessee should be the same person. In the event also of any portion of the land being required for sale or for lease, the portions so required can be more easily withdrawn from the run of the original licensed occupant, if the run be let in sections.

The exception of lands in the neighbourhood of towns from the operation of the general Regulations, in order that they may be subjected to special rules, as suggested by Mr. La Trobe, was originally contemplated by the Council, and is established by clause 6 of the Regulations.

The plan of allowing to each holder of purchased lands the privilege of obtaining at the minimum price the lease of a certain number of adjoining vacant sections, proportioned to the extent of his fee simple estate, is approved by Mr. La Trobe; but he recommends a resort to tender instead of auction, where conflicting claims to leases of the same portions of land cannot be adjusted by arrangement amongst the parties, as well as in cases in which holders of purchased lands may desire to rent more sections than they can acquire under their pre-emptive rights; and at the close of his paper he deprecates the introduction of the system of the sale of leases by auction, "considering that no public advantage will be obtained commensurate with the degree of private injury, embarrassment, and wrong that must inevitably follow."

Mr. La Trobe does not explain the grounds on which he applies these strong terms of condemnation to the system of the sale of leases by auction, which already subsists in the Port Phillip district as well as in this part of the colony; but so far as the Council are able to form an opinion on the subject, the objections would apply in a much greater degree to the system of public tender which he proposes to substitute. At a sale by auction any person having a particular interest in any portion of land can secure to himself a lease of it, if it be of so much value to him as to make it worth his while to outbid his competitors; and although he may have to make a considerable advance on the upset price it will not ordinarily happen that he will have to pay more than the marketable value of the property. A person may

certainly be run up, as it is termed, to a sum exceeding the value of the lease, but even this extreme case appears to afford a strong argument for the preference of the sale by auction, as it may be fairly assumed that the possession of the land was from peculiar circumstances of such value to the individual that he would rather give more than its real worth than lose it. But under the system of tenders, through ignorance of his competitors' offers, he might lose by a few shillings what he would gladly have given additional pounds to secure.

Mr. La Trobe's suggestions, in the paragraph numbered 4 of his paper, as to the mode of dealing with lands not claimed or occupied under the privileges conceded to purchasers, are met to as great an extent as the Council could advise by Clause 16 of the Regulations. The privilege of retaining the occupation of their runs under yearly lease, until they may be claimed by neighbouring purchasers, is thereby conceded to those persons whose runs were beyond the boundaries of location, before the passing of the Order in Council, but are placed by that Order in the class of settled lands.

Those persons who desire to rent lands, which before the passing of the Order were within the boundaries of location, but who are not holders of purchased lands, cannot be considered entitled to any special privileges, and should only be allowed to obtain leases by purchase at auction.

The Council cannot concur in the principle advocated by Mr. La Trobe, that "compensation for certain *bonâ fide* improvements should be allowed to the lessees of Crown lands in the settled districts." The Council have already recommended that compensation for existing improvements should be allowed to those persons whose runs have been brought within the settled districts by the Order in Council, though previously beyond the boundaries of location, and, consequently, beyond the limits within which lands were open to purchase. Persons within the boundaries of location, as they were defined before the issue of the Order in Council, should have purchased land before they improved it, and no encouragement should now be held out to persons in the settled districts to make valuable improvements on lands the property in which remains with the Crown. Indeed it is scarcely compatible with the provision, that lands leased from the Crown in the settled districts shall be used for pastoral purposes only, that any valuable improvements should now be made on lands so held.

Although for the reasons above explained the Council have been unable to adopt all Mr. La Trobe's suggestions, they hope that the modifications made in the Regulations since his perusal of them will be sufficient to render them generally acceptable to him. The Council have the further satisfaction of hoping that they will be also acceptable to the bulk of the occupants of land in the Port Phillip district, as it certainly appears that the views stated in the two diametrically opposite petitions laid before them, the one from the holders of purchased lands, and the other from the squatters, are sufficiently met to afford to both parties advantages but little short of their expressed wishes.

Papers marked II. and III. appended.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

APPENDIX to MINUTE of the EXECUTIVE COUNCIL explanatory of the provisions contained in the Regulations framed by them respecting the occupation of Crown Lands in the "settled districts" of the Colony.

No. I.—*Crown Lands within the Settled Districts.*

The proposed regulations, however suited to the middle district, are, I am thoroughly convinced, quite inapplicable to the state of things in the settled districts of Port Phillip.

A large portion of these lands, whether upon the coasts or within the prescribed area adjacent to the towns, are not only unsurveyed, but from their decided pastoral character have been long subdivided into regular stations, and been held up to the present time under ordinary squatting license. Many of the stations so situated, or lying partly within and partly without the boundary of these settled lands, are of very considerable dimension—20, 30, or even 40 square miles; and return, in certain instances, as much as 10,000 sheep or 15 to 2000 head of cattle. Under such circumstances, it seems to me that it is quite impossible to apply such a system of occupation as that proposed in the first 12 sections of the Regulations.

If there were no other objection to it than the difficulty that stands in the way of applying two distinct modes of tenure to the large number of stations that lie partly within and partly without the settled boundaries, both in the vicinity of the towns, and along the extended coast line, and on the Glenelg, I think that would be sufficient to raise doubts as to the expediency of its adoption, and it seems to me that in this district, others might be cited, and that the best course that could be pursued would be:—

1st. To reserve round the towns a certain area—say three miles round Melbourne; two miles round Geelong and Portland respectively, within which the occupation of unsold Crown lands, if permitted at all, would be made the subject of special regulations to be hereafter determined upon.

2nd. That on the unsold lands lying beyond that limit, and in all other parts of the settled district where lands have been, or shall be purchased, the system of occupation by the purchasers of Crown lands, pointed out in Sec. 13 (1) to (9) of the proposed Regulations, should be introduced with the sole alteration, that a system of "tender" should be substituted for that of "auction" in the cases cited in the 7th and following paragraphs.

3rd. That the lands that cannot, or are not claimed or occupied under these Regulations in favour of the purchasers of land, shall be, as at present, allowed to be occupied for pastoral purposes only, under yearly lease or license—subject, of course, to resumption without difficulty either for sale or for the use of those who having become purchasers of the adjacent Crown lands, have acquired a distinct claim to their occupation under the Order in Council; and that in determining the sum to be paid in each instance for the yearly lease or license, the same principle should be applied as under Sec. 2 of the Order in Council in the case of unsettled and intermediate lands—a yearly assessment as in the adja-

NEW SOUTH WALES.

cent and intermediate districts, or a rate for local purposes—being levied upon the stock depastured on each station.

4th. I would recommend the extension of the principle of compensation for certain bonâ fide specified improvements to the settled districts—considering it but just; and know no grave reason why it could not be conceded.

I do not see any other way of getting over the difficulties that appear to exist on every hand.

I must strongly deprecate the proposed introduction of a system of sale of leases within the settled districts "by auction," considering that no public advantage will be attained commensurate with the degree of private injury, embarrassment, and wrong, that must inevitably follow.

(Signed) C. J. L.

Melbourne, January 17, 1848.

No. II.—*Superintendent of Port Phillip to Colonial Secretary.*

Superintendent's Office, Melbourne,
February 19, 1848.

Sir,

I take this opportunity of forwarding to you, in order that it may be laid before the Governor, a Petition addressed to his Excellency by a number of settlers resident within the settled district of Port Phillip, at present occupying Crown land for pastoral purposes, under license, bringing their case under his Excellency's notice, deprecating the disposal of the license to occupy waste Crown lands within the settled districts by sale at auction or by tender; and expressing a hope that his Excellency would be pleased to allow the present occupants to possess them so long as their occupancy is not at variance with chap. iv., section 1 of the recent Order in Council.

My general view and opinion upon this subject have been recently communicated to you, privately if not officially; and you will be aware that I advocate the adoption of arrangements by which the present occupants of waste lands of the Crown within the settled districts shall be allowed to retain their runs, much in the same manner as they are held at present, always provided,

1st. That the immediate resumption of such waste lands of the Crown, either for sale or for temporary occupation, by *bonâ fide* purchasers of Crown lands, under the provisions of the Order in Council, (chap. iv, section 1) is secured, and

2nd. That the price paid for this license of occupation should be such as to give the holder no unfair advantage either over actual purchasers of Crown land on the one hand or holders of waste lands under lease, on the adjoining intermediate districts, on the other.

I have, &c.,

The Honourable
The Colonial Secretary, Sydney.

(Signed) C. J. La Trobe.

Enclosure referred to.

To his Excellency Sir Charles FitzRoy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its dependencies, and Vice-Admiral of the same, &c., &c., &c.

The Humble Petition of the undersigned residents within the settled districts of Port Phillip.

Sheweth,

That your Petitioners have learned that it is the intention of your Excellency's Government to cause the waste Crown lands within the settled districts to be put up annually to auction or disposed of by tender.

That your Petitioners fully admit the justice of the position that as soon as such waste lands can be sold, it becomes necessary and just that the then occupiers should quit their runs for the benefit of the community at large.

That your Petitioners beg respectfully to draw your Excellency's attention to the fact that the settled districts embrace a very large number of squatters, many of whom have embarked in such occupation the whole of their means, and would, if subjected to the leasing by auction annually, be deprived of house and home, and be unable to acquire another locality to which to remove their stock, and it is with reference to this class that your Petitioners are induced to hope your Excellency will take the foregoing circumstances into consideration, and allow the present squatters to occupy what shall from time to time remain of their station, until finally appropriated under chap. iv. sec. 1, of the Order in Council.

Your petitioners respectfully and urgently solicit your Excellency's attention to the interest of the purchasers of land in the settled district, and venture to express the hope that chap. iv., sec. 1, as applicable to such purchasers, may be fully carried out.

Your petitioners therefore humbly pray your Excellency to forego, should such be your Excellency's intention, the putting up the sections to public auction, or disposing of them by tender, and allow the present occupants to possess them so long as their occupancy is not at variance with chap. iv., sec. 1, of said Order in Council.

[41 Signatures.]

No. III.—*Superintendent of Port Phillip to Colonial Secretary.*

48/96.

Superintendent's Office, Melbourne,
February 19, 1848.

Sir,

It is my duty to transmit to you, in order that it may be brought in due course under his Excellency's notice, a petition addressed to his Excellency by certain gentlemen, purchasers of Crown lands in the vicinity of Melbourne, which has been handed to me for this purpose. It represents the disadvantages under which the purchasers of Crown land, with a view to agriculture, labour, as long as the system of temporary occupation of the waste lands for pastoral purposes is permitted within the settled districts of the colony; and prays his Excellency to give full effect to the authority del e

gated to him of giving the use for pastoral purposes of the waste Crown lands within the settled districts to the proprietors of land and agriculturists within the same.

Upon this subject I take leave to state that, considering the large extent, position and character of the unalienated Crown lands comprised within the various settled districts of Port Phillip, I apprehend that no system of exclusive occupation by the purchaser of Crown lands, such as the petitioners advocate, could be devised or carried into effect; and that the extinction of the system of temporary occupation for pastoral purposes, by those who may not be actual purchasers of Crown land, must be a work of time.

But I certainly concede that the position of the purchasers of Crown lands of the description of the petition has up to this time, in many respects, been a disadvantageous one.

I consider that the introduction of the new principle laid down by the late Imperial Act and Order in Council will remove these disadvantages to a certain degree; and I have no doubt but his Excellency and the Executive Council, in framing the necessary detailed regulations for the occupation of waste lands of the Crown within the settled districts, will be sensible of the just claim of the purchaser of Crown land, as well as of the expediency of placing matters on such footing as may lend encouragement to the purchase and improvement of the same.

I have, &c.,

The Honourable
The Colonial Secretary, Sydney.

(Signed) C. J. La Trobe.

Enclosure referred to.

Unto his Excellency Sir Charles Augustus FitzRoy, Knight, Companion of the Royal Hanoverian Guelphic Order, Captain General, and Governor in Chief of the Territory of New South Wales and its dependencies, and Vice-Admiral of the same, &c. &c. &c.

The Humble Petition of the proprietors of land and the agriculturists in the settled districts around Melbourne, in public meeting assembled.

Sheweth,

That since the year 1836, when Port Phillip was first occupied, the large sum of half a million sterling has been paid to Government by the agriculturists and other land proprietors of Port Phillip, in the purchase of Government lands; and that an additional large amount has been expended by your petitioners in bringing large blocks of said purchased land near Melbourne under cultivation, your petitioners thus giving the best proof of their conviction of the surpassing fertility and salubrity of its soil and climate.

That from a variety, probably, of unforeseen circumstances connected with the first years of Port Phillip, the rights and interests of your petitioners have not been, as your petitioners believe, sufficiently attended to, and a sort of argument or justification has been put forward by interested parties to the effect that this magnificent colony was unfit for agriculture, and that all attempts to make it agricultural should be resisted; however untrue or absurd this statement may now appear, it has proved most injurious to your petitioners and to agriculture, particularly in situations where their growing crops were adjacent to occupants of Crown lands under depasturing licenses. The same reasons, and the same state of the law still continue; your petitioners, therefore, respectfully submit to your Excellency, that agriculture must be altogether an insecure investment of capital and industry, if leases or licenses to occupy waste lands are given within the settled districts. The interests of persons occupied chiefly in pastoral pursuits are adverse to the purchasing of land, and to agriculture, and we admit that they cannot co-exist in the same locality.

The waste lands of the Crown are adjacent and convenient to the purchasad lands, and moreover indispensably necessary to the agriculturists in the first improvements for the grazing of the requisite amount of stock for farming purposes, such as ploughing, trench ploughing for vineyards, grubbing, fencing, manuring, &c. &c.

Your petitioners therefore pray your Excellency to give full effect to the authority delegated to you of giving the use for pastoral purposes of the waste Crown lands within the settled districts to the proprietors of land and agriculturists within the same.

And your petitioners shall ever pray, &c.

(Signed) P. Macarthur, J.P., Chairman.
J. M. Ardlie,
Thos. Pendock Bingley,
A. Mackillop,
E. E. Kenny,
} Committee.

NEW SOUTH WALES.

FROM THE SECRETARY OF STATE.

No. 1.

(No. 278.) No. 1.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, December 20, 1847.

Page 3.

I HAVE received your Despatch No. 125, of the 19th June last, enclosing a pamphlet published in Sydney, by Mr. R. Lowe, a Member of the Legislative Council, and entitled "The Impending Crisis; an Address to the Colonists of New South Wales on the proposed Land Orders."

You will inform Mr. Lowe that I have read his remarks, but that I am unable to concur in the views he has expressed in regard to this question. The grounds upon which I have adopted an opposite opinion to his own on the subject, will be found in my Despatches relating to the system of leasing land in the colony, which have all been printed, and to those documents I should wish Mr. Lowe to be referred.

I have, &c.,

Sir C. A. FitzRoy. (Signed) GREY.
&c. &c.

No. 2.

(No. 34.) No. 2.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, February 27, 1848.

Page 6.

I HAVE to acknowledge the receipt of your Despatch, No. 137, of the 5th of July last, accompanied by a copy of the proceedings of the Executive Council, with respect to the rules originally proposed to be established, by Order of Her Majesty in Council, for the occupation of land for pastoral purposes in New South Wales.

For Lord Grey's Despatch, 30 March, No. 120, vide Papers relative to New South Wales, ordered by the House of Commons to be printed 31st March, 1847, No. 252, page 7.

You will already have learned from the Order in Council, which was transmitted in my Despatch, No. 120, of the 30th of March last, that the doubt which was entertained by the Executive Council, whether the Queen could legally delegate to the Governor the power of classifying the lands of the colony, had been anticipated, and that this classification has been effected by the Order in Council without the proposed delegation.

With respect to the delay and expense apprehended by the Executive Council in the surveys requisite for carrying Her Majesty's Order in Council into effect, and to the evidence tendered them on this point by the Deputy Surveyor-General, I herewith transmit for your information the copy of a

February 3, 1848.

letter from Captain Dawson, R.E., containing a detailed statement of his views, which, at the request of the Emigration Commissioners, he has addressed to them on the subject.

Session Paper, No. 394, p. 340.

I would also call your attention to a Report upon running Surveys, by the same officer, (contained amongst the documents printed by the Committee of the House of Commons on South Australia, in 1841,) a copy of which is now annexed.

It will be seen that Captain Dawson is of opinion that by following out the principles laid down in his letter of the 3rd of February, the expense of survey may, for all practical purposes, be reduced considerably below the estimate given by Captain Perry, whose calculation proceeds upon a larger and more costly scale. And I would here remark, that however desirable may be an accurate scientific map of the whole territory, it is to be borne in mind that, with a view to the present object, all that is necessary for the public interest is to ascertain the demarcation between the different classes into which the lands of the Crown are divided by Her Majesty's Order in Council, which I have no doubt may be accomplished at a very moderate expense.

With regard to the establishment of a clear division between adjacent runs, I have to remark that this is an object rather of importance to the holders of

these runs than to the public, and it may, I think, be fairly assumed that the boundaries are already defined with sufficient exactness for practical purposes since not only have no accounts reached me of any very serious disputes between conterminous occupants, but likewise it would appear from the local newspapers, that proceedings are brought and sustained for trespass—a fact which implies that the limits of the property must be tolerably well ascertained.

If, however, a more accurate survey than has hitherto sufficed for defining the boundaries of different runs is considered necessary by the holders for the security of their property in them for the terms of their leases, it is obvious that the expense of such surveys must be defrayed by themselves, since there are no grounds why the public revenue should be made liable for the cost of a survey only required in consequence of the additional value given to these runs by the more favourable terms now to be allowed to the holders without requiring from them any increase of rent.

I have, &c.,

Sir C. A. FitzRoy, &c. &c.

(Signed) GREY.

Enclosure in No. 2.

Encl. in No. 2.

GENTLEMEN, Somerset House, February 3, 1848.

HAVING read the papers which you referred to me relative to setting out the boundaries of the squatting distries or runs in New South Wales, I have the honour to report to you that I concur in opinion with Mr. Perry that the most satisfactory mode of procedure would be by a regular trigonometrical and chain survey; but as I have no personal knowledge of the country, I cannot venture, in opposition to an officer of Mr. Perry's experience and acknowledged ability, to give any opinion as to the probable expense of such a survey.

It appears to me, however, that the description of survey contemplated by Mr. Perry is probably of a more detailed and perfect kind than the necessity of the immediate object requires; that he in fact contemplated an extension in detail of the trigonometrical survey now in progress in New South Wales; and that such a survey, though undoubtedly most valuable for general purposes, if the circumstances of the colony require it, would be more tedious and more expensive than you would probably think necessary or desirable under existing circumstances for the particular object in question.

Looking to the immense extent of the tract of country over which the runs are spread, measuring about 1100 miles in length by 200 in breadth, and containing an area equal to four times the surface of England and Wales, it must be evident that any geodetic operation of such extent would be attended with very considerable expense; and it should therefore appear desirable to confine attention as strictly as possible to the particular object in view, viz. :—

The determination of the locality of the several runs, and the representation of them upon a general map, so as to guard against serious overlaps in the outset, and to admit of extension in fuller detail at some future time.

The runs are stated to contain, on an average, about 20 square miles each.

The total number of runs appears to be about 1100, or, on an average, one in every 200 square miles; and

The number of acres in cultivation in each run or station appears to be about 12, or less than a thousandth part of the area of the whole run.

It is scarcely probable therefore that numerous or serious cases of disputed boundary can for several years occur touching the external boundaries of the runs; and still less is it to be expected that any such disputes will arise touching the cultivated and more valuable portions which must be supposed in most cases to be centrically placed and not on the confines of the runs, except when rivers form the boundary, which case is expressly provided for by the regulations of the Surveyor-General's Department, so as not to admit of the possibility of disputes.

The regulations as to the divisions of the lands in New South Wales, prescribe, *as a general rule*, that "each lot must be rectangular."

A compact rectangular block of 20 square miles would measure about five miles by four, the external limits of which would everywhere be at least two miles distant from the homestead; and any differences touching the limits of purely pastoral lands at such a distance from the homestead, should appear to admit of an easy adjudication, though the description of the boundaries were given in very general terms—with reference to the natural lines of the ground, or to arbitrary straight lines in the direction of the cardinal points of the compass.

The regulations above referred to further require, that "in every case two sides *at least* of the lot must be directed to the cardinal points of the compass."

Therefore, where the country is flat and not intersected by rivers, it might be sufficient, in the first instance, to describe the limits of the run as extending so many miles or chains to the north, south-east, and west of the homestead, and as being bounded on all sides by straight lines in the direction of the cardinal points of the compass; without stopping to mark any points in the external boundary upon the ground.

And where rivers, ridges, or other natural lines admit of being used for the boundary, such

NEW SOUTH WALES.

natural lines might be described with reference to their distance, north, south, east, and west of the homestead, as well as by their local names; and the extent of the run, with reference to those natural lines, and to the two or more arbitrary straight lines, might also be verbally defined (for present purposes at least) without setting up any visible bound marks upon the ground.

All that should appear to be required in either case from the Survey Department would be to establish the exact locality of the homesteads, and these being laid down in position upon the general map, with the limits claimed and assigned by the respective owners, overlaps (if any occurred) would immediately be detected in the Surveyor-General's Office, and might readily be adjusted without going again upon the ground.

For this purpose a purely trigonometrical survey would suffice. It should be carried on by triangles of the largest practicable size over the intermediate and unsettled lands where no runs occur; and in the immediate neighbourhood of the runs the additional detail should be no more than was found to be essentially requisite for determining the position of the homestead.

In no case, as it appears to me, should it be deemed necessary or desirable (and certainly not for the first leases) to resort to chain measurements upon the ground, which of necessity are attended with great expense; and if such measurements be avoided, and the locality only of the homesteads be fixed by a trigonometrical survey, and their limits by a verbal description having reference only to the natural lines of the country, and to arbitrary straight lines in the direction of the cardinal points, the expense of the survey will be brought within the narrowest bounds that the nature of the case appears to me to admit of.

The means also will be secured of combining the survey with the existing territorial survey of the colony, and of defining with greater precision the boundaries of the runs, when circumstances arise to require it.

I have, &c.,

(Signed) Robert K. Dawson, Capt. Royal Engineers.

The Colonial Land and Emigration Commission,
&c. &c. &c.

No. 3.

(No. 83.) No. 3.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, May 24, 1848.

Vide pp. 13 and 24.

I have the honour to acknowledge your Despatches, Nos. 238 and 239, of the 6th of December last, the first of them reporting the new counties which it is proposed to proclaim in New South Wales, and the second containing an account of the various arrangements which are contemplated for bringing into effect the regulations contained in Her Majesty's Order in Council of the 9th of March, 1847, respecting the occupation of the unsold lands of the Crown.

I must at the outset express my gratification at the promptitude with which you and the Executive Council have applied yourselves to these important questions, and at the clear and judicious manner in which it is proposed to carry into effect the purposes of Her Majesty's Order in Council.

On the former of the two subjects above referred to, I have to authorise you not only to proclaim the 28 new counties which you have now proposed, but in case you should deem it expedient, any others which may be sufficiently surveyed for that purpose before the 31st of December next. The representations made in favour of including in the "settled districts" the land for ten miles round Belfast, appear to rest upon strong grounds; but to this question I shall revert, upon receiving the further report which you give me reason to expect.

Page 24.

The various measures reported in your Despatch, No. 239, appear well calculated to accomplish their ends, and all of them seem to me free from objection. I am glad to perceive that, as I anticipated when I addressed you in my former Despatch, No. 34, of the 27th of February last, the Surveyor-General has found it in his power to propose plans which, with some modifications by the Executive Council, will reduce the estimated amount of the annual expense for carrying on the requisite surveys of land in the middle district, in order to place the squatters in possession of the leases designed for them, from 20,000*l.* to 7,500*l.* per annum.

Page 130.

I have, &c.,

Sir C. A. FitzRoy, (Signed) GREY.
&c. &c.

(No. 114.) No. 4.

NEW SOUTH WALES.

No. 4.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, July 14, 1848.

I HAVE the honour to acknowledge your Despatches of the number and dates mentioned in the margin. These despatches contain the final opinion of yourself and your Council that the lands for 10 miles around a given point in the township of Belfast, and also for 10 miles around a point in the township of Warrambool, should be included in the settled districts. They also report in favour of conferring on those licensed occupants of Crown lands whose runs, or portions of runs, may have been brought by the late Order in Council, or by any subsequent Order, within the class of settled lands, the same allowance for improvements as is granted to lessees of runs on the expiration of their leases under the 2nd and 3rd conditions of the 15th section of the late Order in Council. And in the last despatch of the series, you suggest, with the concurrence of your Council, that a similar privilege should be conceded to a class of persons who have been licensed to occupy small portions of lands, not indeed as runs for grazing purposes, but for the establishment of inns, stores, and other places of business.

No. 261, 26 Dec., 1848, p. 50.
No. 262, 27th Dec., 1847, p. 53.
No. 263, 28th Dec., 1847, p. 54.
No. 28, 28th Jan., 1848, p. 117.

On the first of the preceding topics I readily agree in the conclusion adopted by yourself and the Council; I shall, therefore, take the first opportunity of submitting to Her Majesty in Council an order for including in the settled districts the proposed extent of land in the townships of Belfast and of Warnambool.

I also quite agree in the propriety of the privilege which it is proposed to confer on the holders of runs and certain other lots of land within districts which may, by the operation of any Orders of Council on this subject, be brought within the settled districts. But I think it will be unnecessary, and in some respects, inexpedient, to effect this object by means of Order in Council. The despatches already received from you show that it is scarcely possible in the colony, and, therefore, much less possible in this country, to foresee all the varying circumstances which may render a right of compensation in some cases fair and proper in New South Wales, and in other cases unadvisable. This forms a serious objection to attempting to regulate the matter by Order in Council. On the other hand, there is nothing to prevent you from adding to the ordinary upset price of the land, in any cases where you think it proper, the estimated value of the improvements; and then if the lot be purchased by any third party, paying over that value to the previous occupant. The only objection I can anticipate to this course is, that it might not afford the same perfect security to occupants as if the rule were actually embodied in an Order of the Queen in Council; but if a clear and precise statement of the rules to be followed be framed by you, with the advice of your Council, and announced by public notice, as those which will be observed subject to confirmation from home, and to any modification which experience or further consideration may suggest, I cannot doubt that the holders of land under licence will place full reliance upon the intentions expressed by the Colonial Government, and will feel that they possess every security which they can require for practical purposes. I have, therefore, to request that you will consult on this important subject with your Council, and will act upon and publish such rules as you may be led to consider required on the one hand by equity towards individuals, and on the other hand, consistent with the general interests of the public.

I have, &c.,

Sir C. A. FitzRoy, &c. &c. (Signed) GREY.

(No. 137.) No. 5.

No. 5.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, August 11, 1848.

I HAVE the honour to acknowledge your Despatch, No. 18, of the 18th January last, accompanied by the Report of a Committee of Council on the minimum price of land.

Page 55.

I need not say that I shall always receive with respect any Report emanating

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from a Committee of the Legislative Council; and in any matter peculiar to New South Wales, the superior knowledge which they can command of circumstances on the spot would lend double weight to their authority. It must be remembered, however, that the present is not a question of purely local concern, and still less of recent experience. It affects the manner of disposing of unoccupied lands throughout the British colonies, and contemplates virtually a recurrence to a system which has been tried on a larger scale, and during a longer time, than any other which can be brought under consideration. The subject, therefore, is one which Her Majesty's Government are bound to consider on its own merits.

The opinion of the Committee would seem to rest on the assumption, that there ought to be almost an unlimited facility for the acquisition of the public lands. Without adverting to the effect of unfavourable times, and of the extent to which the alienation of public lands may have already been carried, they appear to consider it as conclusive evidence of a fault if the sales of such lands as still belong to the Crown, should intermit. An unceasing progress of sales, however, can only be effected by contriving some system which should oppose almost no obstacle at all to any one who may form any wish to possess Crown lands; much, no doubt, may be said in favour of such a course. It is common to hear it argued, that where the unoccupied territory is of immense extent, the great aim should be to promote the appropriation and use of the land; that revenue is a very secondary consideration; and that the object should rather be to leave in the possession of the settlers themselves all their pecuniary resources, in order to assist them in the task of reducing the land into cultivation. This is a very natural view at first sight, and accordingly it is not new. It is the one upon which, until a comparatively late period, the whole of the British colonies have been settled, and which has been attended with universal failure.

In British North America it is the subject of daily lamentation with all parties, that by the course of profuse alienation such large tracts have fallen into the hands of single individuals to the great injury of the country. The place where the idea has really had the most perfect trial has been Western Australia, and its effects are well known: it ruined the settlement. Even in New South Wales itself we have no want of experience of the results of the view which the Committee entertain. Throughout all its early years an almost nominal check was presented to the appropriation of the Crown Lands in the colony, and there was nothing remarkable in its progress. But since a price has been demanded for the lands alienated by the Crown, upwards of a million sterling has been realized from this source, and applied in obtaining a supply of labour, which up to this hour continues to be complained of as still deficient; although the population has been increased by an immigration of apparently nearly 63,000 persons, for whom the means of conveyance could not possibly have been found except from the funds thus supplied, besides 18,000 more persons who emigrated by their own resources after the practice was established by the assisted emigration. It is by means of the increase of population thus obtained, that notwithstanding the diminution of the convict expenditure of this country, and the cessation of the supply of labour formerly afforded by transportation, the colony has continued to advance in wealth and prosperity, and its character has been changed, as has been well said, from a convict to a free country.

Looking to these results, it may with confidence be asserted, that the price paid for land since 1831 has been more than returned to the purchasers in the increased value given to it by the advantage the colony has obtained from the money thus received, and that free grants, if the colony had been deprived of those advantages, would not only have been far less beneficial to those who have bought land than its acquisition under the existing arrangements, but would probably have been as ruinous to them, as similar grants to the settlers in Western Australia. In thus appealing to experience in favour of the policy which has been adopted, I must further observe, that the very same arguments which are now brought forward against the establishment of the minimum price of 1*l.* an acre in 1843, were urged with no less confidence against the establishment of a minimum price of 5*s.* an acre as a substitute for free grants in 1831, and the subsequent advance of that price to 12*s.* an acre in 1839. Each of these changes has been regarded with equal apprehension, yet as I have observed, it is with the adoption of that policy which has equally dictated

each successive advance in the price of land that the great progress of the colony may be said to have commenced.

There are some particulars which, although matter of detail, would be essential to carrying out the views of the Committee, but on which I do not see that they arrived at any opinion. The first question which immediately suggests itself is, what would be the proper price to name if the present one be abandoned. Sir George Gipps long ago observed, that if we were to be guided by asking a price at which lands could sell for pastoral purposes, the smallest coin in the colony would soon be too large a price for an acre of land. And this opinion seems to be confirmed: for whilst some of the witnesses speak of 2*s.* 6*d.* an acre, and others of 1*s.* per acre as the most that could be afforded, another gentleman of practical knowledge, supported by an auctioneer of experience at Sydney, thinks that the lands can only be valued at nothing at all.

It seems to me also necessary to bear in mind that sooner or later, in the progress of every colony, we must expect sales of land to relax or even to cease. When settlement is quite new, and the whole territory still belongs to the Crown, the settlers have everything to buy, and a wide experience shows that at this stage of a colony a large revenue will flow in from the sales of land. But in every instance of a modern colony this has been followed by a suspension of the sales. The settlers have acquired what they want, and become engaged in cultivating their property. And we must also be prepared for a time when any revenue from actual sales of Crown land must become permanently small, unless we are to suppose that the territory is never to be successfully peopled, but that large tracts are always to remain waste.

This leads me to the remark that as society becomes more advanced the sellers of land will naturally become private individuals as in the case of older communities. In New South Wales alone, five millions of acres would seem to be already appropriated by private persons. And the best proof that the falling off in the sales of public land was not merely applicable to its price, is afforded by the fact that at the very time of the lowest revenue from this source large tracts of private lands were offered in the market at almost any price, but could find no purchaser. The cause evidently was the general depression of the times. And I cannot think there could be any good reason why at such a moment it should be wished that the Government could have come into the market and insist upon underselling all the private proprietors who were anxious to meet their difficulties by parting with a portion of their estates.

On the contrary, the maintenance of some stability in the price it imposes upon land is especially incumbent upon the Crown, which must, from the nature of things, be, at the outset of a colony, the great regulator of the value at which land is disposed of. Hence some of the witnesses before the Committee very naturally urged the hardship which would be inflicted upon them if the Government were now to reduce its price below that which it had by Act of Parliament established as the lowest for which it would sell lands, and they plainly indicated that they would prefer a demand for compensation, which, it appears to me, could hardly be rejected without injustice, while it would with great difficulty be met by the colony. I need scarcely remark that it would be impossible to entertain a proposal for providing such compensation from the funds of this country.

But I abstain from entering into any further arguments. Considering the extreme importance of the subject, and bearing in mind that it falls especially to the duty of the Colonial Land and Emigration Commissioners to keep a watchful regard to all that passes on those topics from year to year, I thought it right to call upon that Board for such remarks as might occur to them upon the present question. I have received from them the accompanying able Report, in which I entirely concur, and I would refer you to it for a fuller examination than it is necessary for me to add in this Despatch of the several topics handled in the Committee's Report. To the same document I would also refer you for some remarks upon such portions of that Report as relate to the Orders in Council on Squatting.

3rd August, 1848.

I am very sensible of the striking manner in which the views at which the Committee arrived have been explained in their Report. And I need not say that I am fully satisfied that they in their inquiries have been actuated by the same anxiety for the welfare of the colony which has also prompted the

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remarks I have offered to you upon the present occasion. I shall, however, deeply lament it if any arguments, however ingenious or forcibly expressed, shall lead the public of New South Wales to desire the abandonment of those principles under which the colony has made its extraordinary progress of the last ten or twelve years, and under which the settlements of Port Phillip and South Australia have been so flourishing, in order to recur to the principles on which was founded the colony of Western Australia.

I have, &c.,

Sir C. A. FitzRoy, &c. &c.

(Signed) GREY.

Enclosure in No. 5.

Encl. in No. 5.

Colonial Land and Emigration Office,
August 3, 1848.

Sir,

We have to acknowledge the receipt of your letter of the 9th ultimo, transmitting for our consideration the copy of a Despatch from the Governor of New South Wales, accompanied by the Report of the Select Committee of the Legislative Council of that colony, on the minimum price of land. The Despatch also encloses the copy of a letter from Mr. Bland, a Member of the Legislative Council, commenting on the Report of the Committee, and explaining the grounds on which he dissents from some of the conclusions adopted in it.

20 Dec., 1847.

It is of course superfluous to remark, that the subject to which the Report of the Committee relates is of the most vital importance to New South Wales, and has for many years engaged, both in the colony and in this country, an attention commensurate with its importance. It could scarcely happen that a subject embracing questions so extensive and varied, and involving some of the most difficult problems of political science should not give rise to great diversity of opinion and be viewed in the most opposite lights by different persons. Accordingly, while some (whose views are adopted by the Committee of the Legislative Council) have regarded a high minimum price as fatal to the progress of the colony, and as tantamount to a prohibition of sales altogether, others have advocated such a price as indispensable to the prosperity of that and every new country, and, as the only guarantee against that ruinous waste of Crown property, and that accumulation of excessive quantities in the hands of persons who could turn it to no use which have been so injurious in some of the older colonies. We are satisfied that those who advocate these opinions, however irreconcileable, do so sincerely and solely with a view to what they consider the public advantage. We trust, therefore, that in explaining the points on which we should differ from the views expressed in the Committee's Report, we shall not appear to manifest any want of the respect due to their authority.

Passing from these preliminary observations, it will be convenient, first, to remark upon those parts of the Report which are of a more general character, and afterwards to consider separately the matters of detail.

I. The Report opens with the following words,—"It appears from the testimony of all the witnesses examined, whether favourable or unfavourable to the maintenance of a high minimum price, and even from the Despatches of Sir George Gipps himself, that the sum of 1*l.* does not, in any degree, represent the exchangeable value of an acre of land in New South Wales. The declaration of Parliament, therefore, that land shall not be sold till it realize 1*l.* an acre is a declaration that land shall not be sold till it realize more than it is worth; in other words, that, except under very particular circumstances, land shall not be sold at all. That such has been the practical effect of the measure will be evident from the following table," &c.

The table thus referred to, exhibits the amount of land sales in each year from 1837 to 1846 inclusive. During these years, the minimum price of land was gradually raised from 5*s.* to 1*l.*, and, during the same period, although the population had more than doubled, the amount of land sold annually fell from 368,695 to 7018 acres, having, in the year 1844, sunk as low as 4259 acres. Sir George Gipps had ascribed this extraordinary falling off to the general insolvency of the settlers; but on this point the Committee observe that, although the land sales fell off, or rather were annihilated during these years, the amount of exports, of ships entering inwards, and of coin in the treasury, military chest, and banks had doubled with the population, while the proceeds of sales by auction had also increased. And they consider these facts as a sufficient answer to Sir George Gipps' argument. Assuming the comparative cessation of land sales to have arisen from the increased Government price, they point out what must be its fatal consequences. They add, that the imposition of such a price is peculiarly oppressive towards New South Wales, because it is not extended to other colonies who are her competitors in the land market; and they charge the gentlemen who composed the late South Australian Commission with having imposed this high price upon New South Wales with a view solely to the welfare of South Australia. The truth of this charge, it is said, "is notorious in the colony and can be proved by unquestionable evidence." In answer to this we can only refer to the well-known fact in England, that the gentlemen alluded to had nothing whatever to do with the measure. Indeed it was not adopted until after their Commission had been dissolved and ceased to exist.

This question is, however, not material to the real subject of consideration, which is in the first instance, whether the Committee are justified in their conclusions as to the effect of the minimum price in stopping the sale of land?

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It cannot be denied that the table on which they rely for the proof of this their fundamental proposition is, at first sight, very startling. We have already said, that coincidently with the increase of the minimum price from five to twelve, and ultimately to twenty shillings an acre, the amount of land sales fell from near 370,000 to little more than 4000 acres, and this fact alone would seem at first sight an irresistible proof that the high price was the cause of the falling off of the land sales by which it was accompanied. We think, however, that a consideration of the circumstances of New South Wales will materially modify the conclusion.

The amount of land already alienated by the Crown in New South Wales, and which therefore is already applicable to agriculture, exceeds 5,000,000 acres. And the Committee calculate the number of acres occupied, or which is likely to be occupied for pastoral purposes, at about 180,000,000. The price which land could fetch for these purposes is variously stated. One witness thinks that, under very favourable circumstances, 2*s.* 6*d.* per acre might be obtained; another, that 1*s.* per acre is the utmost the squatter could pay; and a third, an auctioneer of considerable practice at Sydney, whose statement is borne out by a gentleman occupying pastoral lands, states the opinion that it would not answer to buy pastoral lands at all. The "exchangeable value" of a run, if the land is of good quality and stocked with sheep or cattle, appears to be now about 4*d.* or 6*d.* an acre. Further, the lands which, if they are sold at all, must be sold at these prices, comprise considerable tracts, estimated in some districts at one-seventh, in others at one-third of the whole, which are capable of profitable cultivation when the advance of settlement shall render such cultivation possible. Government has hitherto refused to alienate lands on such terms as these. And the Committee have nowhere stated the opinion that Government ought to have acted otherwise. It may be assumed, therefore, that although the principal complaint against the present law is that it renders land unsaleable, except under particular circumstances, yet the Committee themselves are not prepared to assert that it would be proper to sell any portion of the 180,000,000 of acres now only applicable to pasture, except what may from time to time be wanted for cultivation. But it is evident that land sales for the mere purpose of cultivation cannot be expected to proceed very rapidly in a country possessing only 200,000 inhabitants, if 180,000,000 acres are to be occupied under circumstances which render such sales inexpedient, and 5,000,000 are already in the hands of individuals.

P.P. 267 of 1845, p. 62.

Mr. De Salis.
Mr. Ogilvey.
Mr. Mort.
Mr. Dobie.

Messrs. Mort and Lyons.
P.P. 267, 1845, p. 30.

The considerations, however, which in our opinion furnish an answer to the conclusions of the Committee, require a somewhat fuller statement.

We need hardly remind Lord Grey of the extraordinary mania for buying land which prevailed in 1837, 1838, 1839, and 1840, during which, in a colony numbering about 90,000 inhabitants, upwards of 1,100,000 acres of land were sold, and the greater part of the proceeds applied to immigration. It has often been said, and need scarcely be repeated, that the effects of such excessive speculation must necessarily be, first, to exhaust the means of those who are disposed to buy the article in which the speculation takes place, and next to preoccupy more than all the field within which speculation could profitably be carried on. This double consequence was produced in the present case. The speculations of 1837, and the following years, produced the most ruinous embarrassments among the class who, if unembarrassed, would have bought land from Government; and it glutted the land market with property, which its purchasers could neither procure labour to cultivate nor afford to hold uncultivated, and which they were consequently obliged to offer for sale at any price. The depreciation of landed property arising from these causes must, we think, under any circumstances have produced a temporary cessation of land sales, and if so it appears to us that the increased price of Crown lands can have had no other effect than perhaps the beneficial one of hastening this inevitable result.

But lest it may be thought that these natural causes (if this expression may be applied to the laws of trade) would be insufficient to account for the very remarkable facts exhibited in the Table of Land Sales, we may perhaps be allowed to illustrate this part of the question by what has occurred lately in this country. It is within the recollection of everybody that the year 1845 was a period of extravagant speculation in England, and that the object to which capital was generally applied was the formation of Joint Stock Companies. In November, 1844, an office was established for registering projects of this kind; and we have procured a statement of the number of companies originated and provisionally registered from the opening of this office nearly to the present time. The numbers were as follows:—

November and December,	1844	124
,,	1845	1520
,,	1846	292
,,	1847	215
January to June,	1848	59

This, it will be observed, exhibits a decrease something analogous to that appearing in the land sales of New South Wales; but turning to the department of railways in which the principal speculation took place, the result is more strikingly to the point. The number of registered projects is here as follows:—

November and December,	1844	81
,,	1845	1129
,,	1846	55
,,	1847	16
January to June,	1848	0

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This table exhibits the results necessarily following from over-speculation, if left to the operation of the ordinary laws of trade. By the sole operation of these laws, the origination of railway projects has been for the moment, not substantially only, but literally annihilated. If it had happened that Parliament had interfered to check the speculation of 1844-5, it might have been most forcibly argued by persons interested in the origination of these enterprises that their total extinction was caused by the measures of the Legislature. The actual result shows that they would have been mistaken. Yet the case of railways in England would have been strictly and closely analogous to that of land sales in New South Wales. The same over-speculation has been followed in both instances by the same monetary convulsion, the same exhaustion of private capital, and the same depreciation of that which was the subject of speculation. The differences which may be remarked between the two cases are, first, that the apparent extinction of enterprise has been less absolute in New South Wales than in this country, and next that its revival, which will probably take place hereafter in the department of English railways until their construction shall accommodate itself to the ascertained wants of the country, has already commenced in respect of the land sales of New South Wales which have lately shown a progressive increase, in the purchases of country lands, from 3922 acres in the year 1843 to 6735 in the year 1846, and to about 19,000 in the year 1847.

The arguments of the Committee to show that Sir George Gipps was mistaken in attributing the cessation of land sales to the insolvency of the colonists are answered in detail by Mr. Bland. We should add, however, the observation that a pecuniary convulsion which may be sufficient wholly to prevent fresh investments of capital will never produce a proportionate effect on the current production of the country. And this holds particularly in the present case, where the very cause of insolvency was, that an excessive amount of capital had, through the medium of land sales, been expended in importing a labouring population, while the distinguishing feature of New South Wales is, that scarcely any capital is requisite to apply this labour to the production of wool, the great export of the colony. It is obvious, therefore, that production might be carried on and extended by persons who were wholly unable to invest capital in fresh purchases of land. But on this, perhaps, it is unnecessary to insist, as the arguments of the Committee do not, and are not intended to apply to the view which we have above offered (and which is also suggested by Sir G. Gipps), by which the comparative cessation of land sales is referred not merely to the insolvency of the settlers, but to the circumstance that far more cultivable land has already been sold than the available labour of the colony will suffice to cultivate. If we may be allowed to recur to our former illustration, it is clear that the same causes which reduced the number of railway projects from 1129 in 1845 to nothing in the first six months of 1848, have not, and could not possibly have had anything like a proportionate effect in checking the growth of the population, the exports, the shipping, or the sales by auction of this country.

Under these circumstances, we cannot agree with the Committee in tracing the diminution of land sales to any measures of Government. We consider, on the contrary, that although that diminution may have been accelerated or prolonged by various causes, of which the increased price of land is one, and perhaps the pressure for its reduction another, yet this diminution is in the main the natural consequence, as it is also the effectual cure, of the excessive speculation of former years; and we are fortified in this opinion by observing, that while the natural effect of an excessive Government price would be to enhance the value of lands in the possession of private individuals, the fact has been directly the reverse, it being stated by several witnesses that those who were extensive purchasers of land, even at the rate of 5*s.* an acre, have been injured or ruined by so doing, and that persons will not at present invest capital in land, although much land has changed hands, and is still for sale at less than the lowest price for which it has ever been sold by Government. We think it obvious that Crown lands will acquire a value somewhat proportionate to the amount of profits which may be drawn from them, when the increase of population shall render it practicable to cultivate a larger proportion of the land already alienated by the Crown, but not until then; and we think that the attempt to force the continuance of Government land sales on a large scale, in spite of the depreciation of landed property to which the extent of past sales has already led, will be found ultimately impracticable, and for the short period during which it has any effect, can only result in mischief. Such a proceeding would appear to involve the principle that whenever the circumstances of the colony compelled individuals to sell their property at ruinous prices, Government should be compelled to do the same, although at the double cost of enhancing, by an unnecessary competition, the existing depreciation of private property, and of sacrificing that prospective revenue which presents the only available means of restoring value to land by the importation of labour.

Mr. Ogilvie, Qu. 14.
Mr. Lyons, Qu. 5 to 8.
Mr. Mort, Qu. 6, 7.
Mr. Cornish, Qu. 37.
Mr. Lyons, Qu. 9, 13, 14.

If then the allegation that the minimum price of 1*l.* per acre has prevented, and will permanently prevent, the continuance of land sales, be not made out, it is unnecessary to offer any remarks on the conclusions which have been drawn from that hypothesis. As, however, the extinction of the land revenue is one of the consequences attributed to the policy of Government, we may here observe, that if we adopt the estimate of the Committee that 180,000,000 of acres will probably be occupied by squatters, and compute with them that about four or five acres of this land are required to feed a sheep, the annual revenue derived from leases alone will not fall far short of 100,000*l.*

Two observations of the Committee require a short notice. First, it is urged that the high price required for land in New South Wales renders that colony less attractive to capitalists than others in which land can be bought on easier terms. This argument, however, requires no separate consideration, since it assumes what is in fact the point in question, viz.:—that a high price is detrimental to the colony. If, on the contrary, that high price is a benefit, it can

hardly be doubted that the increased value which land will derive from the general progress of the country, will, even in the eyes of the capitalist, far more than outweigh the increase of expenditure in the item of purchase-money.

The same answer is in effect suggested by Mr. Bland, who observes, that the eagerness with which land is sought in different countries is not proportioned to the price it bears, but to the facilities which exist for turning it to account. This is also borne out by our every day experience, since, whenever the additional expense is not an obstacle, we find a great preference in the public mind for emigration to the Australian colonies, where land is dear, over emigration to the provinces of British North America, where land is cheap. And, even to British North America, the emigration is principally confined to Western Canada, where, as contrasted with New Brunswick and Nova Scotia, land may be considered as comparatively dear. It may be worth while to add, that a project has lately been set on foot for founding a settlement in New Zealand, in which the projectors have voluntarily adopted the price of 3*l.* an acre.

The Committee also observe that the present mode of sale inflicts on the purchaser the double inconvenience of a high and of an uncertain price. A high minimum, it is said, ensures that he will not get his land cheap, while the sale by auction renders it uncertain whether he will get it at all. This, however, seems inevitable; since, if it is for the public good that the Crown, and through the Crown the colony, should receive from individuals a proper price for the public lands, it is necessary to impose upon individuals the inconvenience of losing those lands, unless they are prepared to pay that price. But we must add, that the inconvenience of uncertainty is at least greatly limited, if, as we believe to be the case, there are at present in the colony large tracts of lands, which having been once put up to auction without being sold, are now grantable to any applicant, without competition, at the minimum price.

Having thus gone through the arguments of the Committee on the subject of the minimum prices, we may, perhaps, be permitted shortly to recapitulate the main facts which appear to us to illustrate the imprudence of encouraging sales of land without also providing the means of importing the labour necessary for its cultivation. They are as follows:—

In the year 1843, upwards of 5,000,000 acres appear to have been in the hands of individuals, of which about 3,500,000 had been granted away, and about 1,000,000 acres had been sold at the price of 5*s.* an acre. At this price, and while the land fund was the only revenue applicable for the purpose of immigration, it was wholly impossible that the alienation of land should be followed by anything like a proportionate importation of labour. It became, therefore, not difficult or expensive, but actually impossible to cultivate more than a small portion of the land which had passed to individuals, and very expensive to cultivate this. The purchasers of land have found themselves therefore possessed of an excessive superfluity of land, and pressed for money. The obvious consequence must have been, and has been, that, except under particular circumstances, land will not bring more than a nominal price; that is to say, that the present unsaleable character of land, and consequent diminution of the funds for immigration purposes arising from that source, is traceable to the inadequate price at which lands were alienated at the period referred to. So far, therefore, from supporting the conclusions of the Committee, we conceive that the experience of the last few years leads to conclusions exactly the reverse. It shows that a policy which precipitates the alienation of land, without providing for the introduction of the labour necessary for its cultivation or the construction of roads and other similar works, must retard, rather than accelerate, the progress of the colony; that in the alienation of the Crown's estate, the object ought to be so to fix the price as to ensure that land shall be acquired only by those who are able to turn it to account; that far from the quantity of land now occupied in New South Wales being too small, it is evidently too large, relatively to the supply of labour at present in the colony, since so intense is the competition for labour, and so large the wages consequently paid, that they eat up almost the whole profits of the employer; and that if by a reduction of the present price the occupation of more land were stimulated, these effects would be proportionably aggravated until the wages of labour became so high as to render the profitable investment of capital in land or stock impossible. And considering that the land revenue is the only source out of which immigration can be provided for, and that on a constant and plentiful supply of immigrants the whole prosperity of the colony must depend, this argument might even, perhaps, be pushed further, and it might be contended that the price of land, far from being too high, is in reality not high enough.

P.P. 267, 1845, p. 62.

Report of Committee, 1847.

We now pass to the question of the Orders in Council on the subject of Squatting. To these Orders the Committee and Mr. Bland decidedly object; but on the other hand, they are considered equitable both by the stockowners examined by the Committee, and by others who do not appear to have any direct interest in the question. The Committee argue, that the method which has been taken for sanctioning the occupation of lands for pastoral purposes is equivalent to their confiscation in favour of their first occupants, and this argument is grounded on the allegations: first, that those occupants are secured in the possession of their lands until they are sold at the minimum price of 1*l.* an acre, and, secondly, that such a sale can never take place.

Messrs. Mort, Fry, and Bloxsome.

It must necessarily occur, under any system of regulations, that difficulties will arise in counteracting the general tendency of occupation to rise into possession; but we cannot agree in either of the arguments adopted by the Committee on this subject. First, the Committee have omitted to notice that a limit can at any time be put to the squatter's occupation of his lands, by including them within the settled districts—a proceeding which is expressly contemplated and provided for by the Orders in Council. And next, we have endeavoured to show that the resumption of land sales, in a degree proportionate to the ability of the colony, is not so improbable as the Committee consider it to be.

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If we are correct in these views, the statement that the Orders in Council, in their tendency to promote dispersion, "outdo the wildest abuse of free grants," cannot, of course, be maintained. And although it must, we think, be conceded that the state of things which is thus recognized shows the impracticability, in a country like New South Wales, of preventing the dispersion of the settlers by a high price of land, yet it is obvious that the Order in Council did not in fact introduce any new system, but only sanctioned and legalized a mode of occupation which already existed. The effect of such measures in respect to the dispersion of the settlers had been already pointed out by Sir G. Gipps; but the real fact is, we apprehend, that in any colony which offered to our enterprising countrymen a sufficient motive for dispersion in the way of pecuniary profit, every attempt to force concentration would prove eventually ineffectual.

Vide his Despatch of 17 Jan., 1844.

II. We now proceed to observe upon the objections of detail raised by the Committee to the recent Orders in Council, in the 10th and eight following paragraphs of their Report.

Par. 10. The objections to the division into districts, as inapplicable to the local peculiarities of the country, must, we apprehend, be referred to the Governor for his Report. The question is one so purely of a local character, that no one not possessed of local information would be competent to pronounce an opinion upon it.

Par. 11. The Committee observe that the 1st and 11th sections of the 2nd chapter of the Orders in Council are not in accordance. The first section empowers the Governor to grant leases to such persons, and for such a term of years, as he shall think fit; while the 11th section appears to make it compulsory for him to grant runs under certain conditions to their present occupiers. We apprehend that the power given by the first section must be exercised subject to the restrictions imposed by the 11th. The result will doubtless be, as suggested by the Committee, that the present occupiers will be entitled to leases whether they have yet stocked their land or not. What is the amount of inconvenience likely to arise from this consequence we have no means of judging.

In the 12th paragraph, the Committee represent that a regulation which prohibits the cultivation of land which has been let for merely pastoral purposes, is a "tax on the consumers of agricultural produce," and "gives to the owner in fee simple a monopoly of the employment of agriculture." It is obvious that this argument would tell with equal force against any land sales effected at any price. In the sense in which the Committee use the words, the enforcement of any payment on the purchasers of land would be the imposition of a tax on the consumer of agricultural produce; and to prevent individuals from cultivating lands which were not theirs, would be to give those purchasers the monopoly of agriculture. We cannot concur in this reasoning. The prohibition to cultivate land which the stockholder rents at less than a farthing an acre, expressly for the purpose of pasture, is also characterized as "annexing ruinous conditions to occupation without purchase;" and it is argued, that three hundred million acres must, under the present regulations, remain desolate for forty-eight thousand years, because it would take that period to sell the whole of that quantity at the rate at which lands are selling under the present remarkable circumstances of New South Wales. It will probably be considered unnecessary for us to enter into any arrangement to disprove this reasoning.

Par. 13. On the supposition that four acres of pasture at least are required for each sheep, and assuming that a rent derivable from land is fairly commutable at 12 years' purchase, the Committee calculate that the fee simple of the unsettled lands is granted to the occupants at a price which is equivalent at most to 1½*d.* per acre; and they contrast this with the payment, varying from 5*s.* to 1*l.*, which has been required from the purchasers of land, and with the annual quit-rent of 2*d.* per acre, which it was thought right to reserve, even upon the free grants of former times. In this calculation the Committee have not adverted to any difference in value between the lands purchased for cultivation and those leased for pastoral purposes; and they have assumed that the interest granted to the squatter is equivalent to a fee-simple. The following circumstances should, however, be taken into consideration, in explanation of the disproportion complained of:—1st. We have already attempted to show that the interest granted is not either legally or virtually equivalent to the absolute ownership. 2ndly. Except in the cases of present occupants, or of those who may be supposed to have expended time and money in discovering their runs, the price cited by the Committee is a minimum, as vacant runs are to be exposed to public competition, with the peculiarity that this competition takes place by tender instead of auction. 3rdly. We observe that it is admitted by Mr. Bloxsome, that land naturally cleared and fit for cultivation purposes is worth, "perhaps," 3*l.* or 4*l.* an acre, while it appears that runs may now be obtained for 4*d.* or 6*d.* an acre. 4thly. While the gross produce of cultivated land is loosely estimated by one witness at 4*l.* or 5*l.* an acre, the gross produce of an acre of good pastoral land can scarcely be calculated at more than 1*s.* 5thly. The payment required from the owners of the pastoral lands has been increased, and not diminished, by the recent Orders in Council.

We must, however, admit, that after all these statements, the minimum price required from purchasers of agricultural land appears very large in proportion to what may be called the minimum rent of pastoral lands; and it is, of course, possible that this disproportion may be viewed with dissatisfaction by the cultivators of land, who may regard it as something in the nature of a differential tax levied on those purchasing land for agricultural pursuits. But we have to observe that the inequality may be removed by the Legislative Council, who have it in their power at any time to increase the assessment on stock.

Par. 14. If there be good grounds for thinking that it would be hard to dispossess the present occupants of runs not capable of carrying 4000 sheep, we apprehend that the Governor should report the fact, and should suggest such alterations as may appear necessary in the Regulations. But it is to be remembered that a line must be drawn somewhere, and unless

there be any cases in which a regard for existing interests may imperatively demand an exception, there seems no reason for supposing that the capacity for carrying 4000 sheep is an objectionable limit. Nor should we attach any weight to the objection that the scale of payment is graduated by thousands. In a matter of this kind we can hardly suppose a more minute accuracy necessary.

Par. 15. The Committee suggest that the squatters may use their right of pre-emption for the purpose of retailing land to intending cultivators; but the Committee themselves anticipate the answer, that any large speculations of this kind will be effectually prevented by the high minimum price of land. We should add, that the squatter is not entitled to buy the land he occupies, even at this minimum price, but for its fair value.

Par. 16. The Committee argue that the Governor's power to dispose of land for public purposes is given in such wide terms as to leave the squatter, in fact, a tenant at will of the Crown. It need hardly be pointed out how much this allegation, if tenable, would weaken the force of these arguments, which represent him as owner in fee; but it is, perhaps, sufficient to observe that the parties interested apprehend no evil from the exercise of this power. This appears from the evidence of various stockholders.

Par. 17. The Land Orders provide, cap. 2, s. 15, 16, that lessees shall be liable to an increase of rent at the expiration of their lease, if any of their land shall be then sold, and shall not be entitled to a renewal if the proportion so sold amounts to one-fourth. This the Committee regard as a discouragement to any purchases which the lessee himself may be inclined to make. But the Committee omit to observe that the 6th section enables the lessee to buy any of the lands comprised in the run, previously to the expiration of his lease, without incurring any such consequences.

Mr. Ogilvy, Mr. Leslie, Mr. Hodgson, Mr. Dobie.

Par. 18. It is said that the provision for granting of leases for exclusively pastoral purposes within the settled districts will ruin many industrious persons who are cultivating small quantities of waste land in those districts for which it would appear (though the point is somewhat doubtful) that they pay a rent to the Crown.

But we must observe that the occupation of these persons under the Land Sales' Act was very precarious, as their licenses were necessarily annual; and, consequently, their tenure must have been too uncertain to justify their occupying for other than pastoral purposes; we apprehend, however, that the attention of the Governor should be drawn to the case of these persons, in order that he may either take steps for removing them from the Crown Lands which they occupy, or may state to Lord Grey the grounds on which they should be permitted to retain their lands. If this more favourable view should be taken, we presume it would be proper to take steps for legalizing, on proper terms, their present irregular occupation.

Mr. McArthur's evidence, Qu. 106, &c.

We feel, in concluding this Report, that we have left unnoticed many expressions or allegations which, under other circumstances, would have called for remark; but we have been unwilling to lengthen our observations beyond what was necessary to bring before Lord Grey the leading points which require his Lordship's consideration.

We have, &c.

T. W. C. Murdoch.
Frederic Rogers.

Herman Merivale, Esq.
&c. &c.

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NEW SOUTH WALES.

COPY OF A DESPATCH

FROM

GOVERNOR SIR C. A. FITZROY

TO

THE SECRETARY OF STATE FOR THE COLONIES,

TRANSMITTING THE

REPORT OF A SELECT COMMITTEE OF THE LEGISLATIVE COUNCIL OF NEW SOUTH WALES

ON

CROWN LANDS

In 1849.

Presented to both Houses of Parliament by Command of Her Majesty,
June 1850.

LONDON:
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1850.

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Colonial Office,
6th June 1850.

B. HAWES.

CROWN LANDS.

(No. 225.)

DESPATCH from Sir C. A. FITZROY to the Right Honourable Earl GREY.

Governor Sir C. A. FitzRoy to Earl Grey, 5th Nov. 1849.

Government House, Sydney, 5th November 1849.
(Received 22d May 1850.)

My Lord,

I HAVE the honour to transmit the copy of an address presented to me by the Legislative Council, requesting me to forward for your Lordship's consideration the accompanying report of their Select Committee on Crown Lands, and the evidence appended thereto.

9th October 1849.

I have, &c.
(Signed) C. A. FITZROY.

Enclosure 1. in Sir C. A. FitzRoy's Despatch.

Enclosure No. 1.

To his Excellency Sir Charles Augustus FitzRoy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice Admiral of the same, &c. &c. &c.

May it please your Excellency,

We, Her Majesty's most dutiful and loyal subjects, the members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to transmit to your Excellency the report of the Select Committee on Crown Lands, and the evidence appended thereto, and to request that your Excellency will be pleased to forward that report and evidence for the consideration of the Right Honourable the Secretary of State for the Colonies.

(Signed) CHARLES NICHOLSON,
Speaker.

Legislative Council Chamber, Sydney,
9th October 1849.

Enclosure 2. in Sir C. A. FitzRoy's Despatch.

Enclosure No. 2.

REPORT from the SELECT COMMITTEE on CROWN LANDS, with APPENDIX and MINUTES OF EVIDENCE.

Extracts from the Votes and Proceedings of the Legislative Council.

VOTES No. 14., TUESDAY 12th JUNE 1849.

9. Crown Lands:—Mr. Lowe moved, pursuant to notice, That a Select Committee be appointed to inquire into the management of the waste lands of the Crown, the appropriation of the revenue derived therefrom, and the influence of such management and appropriation upon the colonization of the territory; the Committee to consist of eight members;—the members to be, Mr. Cowper, the Colonial Secretary, Mr. Hamilton, Mr. J. Macarthur, the Speaker, Mr. Murray, and Mr. Lamb.

Mr. Mackinnon required, That the Committee be appointed by ballot.

Debate ensued on the Question.

Question:—That a Select Committee be appointed to inquire into the management of the waste lands of the Crown, the appropriation of the revenue derived therefrom, and the influence of such management and appropriation upon the colonization of the territory; the Committee to consist of eight members. Put, and carried.

Whereupon, pursuant to the request of Mr. Mackinnon, the Council proceeded to the ballot, and the following members were declared to have the greatest number of votes, and to be, with the mover, the Committee duly appointed; viz., the Speaker, Mr. Mackinnon*, the Colonial Secretary, Mr. Cowper, Mr. James Macarthur, Mr. Hamilton, and Mr. Wentworth.

* Resigned his seat in the Council, 22d June 1849.

Governor Sir C. A. FitzRoy to Earl Grey, 5th Nov. 1849.

Enclosure No. 2.

VOTES No. 23., WEDNESDAY 27th JUNE 1849.

Orders in Council and Proclamations affecting Crown Lands:—The Colonial Secretary, by command of his Excellency the Governor, laid upon the table certain despatches having reference to Orders in Council, and Proclamations under them, affecting Crown Lands. Ordered to be printed, and referred to the Land and Immigration Committee now sitting.

VOTES No. 38., TUESDAY 24th July 1849.

14. Crown Lands Committee:—Mr. Lowe, as Chairman, moved, pursuant to notice, That Mr. Foster's name be added to the Land Committee.

Question put, and passed.

VOTES No. 65., FRIDAY 7th SEPTEMBER 1849.

5. Land Committee:—Mr. Lowe moved, pursuant to notice, That the name of Mr. Mackinnon * be restored to the Land Committee.

Question put, and passed.

* Resumed his seat in the Council 4th September 1849, after re-election.

VOTES No. 79., WEDNESDAY 3d OCTOBER 1849.

3. Crown Lands:—Mr. Lowe, as Chairman, brought up the report from and laid upon the table the evidence taken before the Select Committee appointed on the 12th June last, to inquire into the management of the waste lands of the Crown, the appropriation of the revenue derived therefrom, and the influence of such management and appropriation upon the colonization of the territory.

Ordered to be printed.

LIST OF WITNESSES EXAMINED.

	Page		Page
John Badcock, Esquire - - -	19	Jacob Meade Swift, Esquire - -	32
Thomas Blake Duggan, Esquire -	25	F. L. S. Merewether, Esquire -	35
John M'Kirdy, Esquire - - -	28	Mr. James Beuzeville - - -	47
Mr. John Duncan - - - -	30	Mr. Thomas Bowden - - -	50

THE SELECT COMMITTEE of the Legislative Council appointed on the 12th June 1849, "*to inquire into the management of the waste lands "of the Crown, the appropriation of the revenue derived therefrom, "and the influence of such management and appropriation upon the "colonization of the territory,*" have agreed to the following report:—

1.—The large inquiry intrusted to your Committee, how complicated soever in its details, is really nothing but an inquiry into the most appropriate means of colonization. The management of Crown lands, and the appropriation of their revenue, must be pronounced good or bad with reference to the manner in which they satisfy this test. The system of selling land for the price of twenty shillings per acre may have various good effects, such, for instance, as the checking of speculation; the system of leasing Crown lands may have the good effect of encouraging the pastoral interest; but these systems are not, therefore, to be pronounced good, unless they promote to the utmost that which ought to be the end of all such systems,—colonization. Taking this principle for their guide, your Committee proceed to examine the subjects pointed out for their inquiry, which may be reduced under the following heads:—1st, The sale of land; 2d, The temporary occupation of lands; 3d, The present appropriation of the land fund; and, 4th, The claim of the Council to the management of Crown lands and the appropriation of the land fund.

I. THE SALE OF LAND.

2.—The subject of the sale of land was treated at great length in the report of the Committee of the Council appointed in 1847, printed in the parliamentary papers on that subject.* Your Committee will not here repeat the arguments contained in that report against the present minimum price of twenty shillings per acre, demanded for Crown lands; but as these arguments are combated with much ingenuity and plausibility in a letter addressed by the Land and Emigration Commissioners to Mr. Merivale, Under Secretary of State for the Colonies, they think it only fair to the Committee of 1847, and due to their own conviction, to examine, at some length, the argument of the Commissioners.

* Vide Papers relative to the Occupation of Crown Lands, New South Wales, presented to Parliament by Her Majesty's Command, 1848, Page 62.

3.—The

3.—The Commissioners assert that it is a well-known fact, in England, that the gentlemen of the South Australian Commission had nothing whatever to do with the measure of raising the price of land to one pound per acre; indeed, they say, it was not adopted until after the Commission was dissolved. It may be perfectly true that the Commissioners had nothing to do with *preparing the act of parliament* 5 & 6 *Victoria, cap.* 36., and that their commission had expired before it had passed; but that the policy of raising the price of land in New South Wales was first suggested, not by any authority in the colony, but by the South Australian Commissioners, with a view to the benefit of their own colony, will manifestly appear from the letter dated 12th October 1836, signed "Robert Torrens," which is appended to this report, and which was enclosed in a despatch from Lord Glenelg to Sir Richard Bourke, No. 265. That letter mentions a personal interview which Colonel Torrens had with Lord Glenelg, in which the colonel expressed his *alarm* lest the reduced minimum price of lands at Port Phillip should prove destructive to the colony of South Australia. It states the impossibility of the co-existence of the land systems of South Australia and New South Wales; that if land be sold at five shillings in New South Wales, it cannot be sold for twelve shillings in South Australia; that keeping up the price of five shillings would be a confiscation of property embarked in South Australia; that the faith of the Government was pledged not to nullify the provisions of the South Australian act by reducing the value of land below twelve shillings an acre; and requests his Lordship to establish, along the coast of New Holland, that uniformity of price which may be necessary to give effect to the South Australian system. With such a document in existence, your Committee cannot agree to the Commissioners assertion, that it is a well-known fact, in England, that the gentlemen alluded to in the South Australian Commission had nothing to do with the measure.

4.—The Commissioners observe, that the subject of the report involves some of the most difficult problems of political science, and therefore, while some regard the high price as ruinous, others regard it as indispensable to the prosperity of new colonies, and the only guarantee against a ruinous waste of the lands of the Crown. This may be true of England, where there is no practical experience to correct the aberrations of theory, but it is not so with regard to the colony of New South Wales. Here, at least, there is but one opinion upon the subject, an opinion entirely adverse to the price of twenty shillings per acre, which is not merely high, but prohibitory. The Colonial Minister must not deceive himself by supposing that he is siding with a party in the colony who hold opinions identical with his own. Those who approve of a high price in the colony are generally advocates for a return to the price of five shillings an acre; those who approve of a low price would put up the land at a farthing an acre, and allow its value to be determined by competition. There are no advocates of a prohibitory price. It cannot be too strongly impressed upon him that this price has been forced upon the colonists in defiance of their unanimous opinion, and is retained in total disregard of their unaltered conviction. It is well observed by the Land and Emigration Commissioners, in their letter to Mr. James Stephen, dated the 17th July 1841, "that the extent to which the price can be raised has limits beyond which no autho-
"rity will avail." "Just as the smuggler places a limit beyond which the duties of customs
"cannot be increased, so the squatter would defeat an indefinite increase of the price of
"land; for as soon as the consideration demanded by Government for granting a title
"becomes extravagant, persons will prefer the course of taking land without title, and
"bearing the risk." To use the metaphor of the Commissioners, the only persons who wish to perpetuate the present price are those who have the same interest in it as the smuggler has in a high rate of duty. Free trade ruins the smuggler; cheap land destroys squatting. Your Committee are quite willing to try the arguments of the present Commissioners by the test of their predecessors; that is, if they would know whether the price is extravagant or not, let them see whether people prefer occupation without or title with payment, and judge accordingly.

5.—All that the Commissioners urge in favour of the parliamentary price is, that it has either had no effect at all upon the sales of land (which have ceased, they say, from other causes), or, if it has had any effect, that effect has been the salutary one of checking the speculative mania for land purchases which then prevailed. So that, according to the Commissioners, the policy of this act was restrictive, and if so it must be admitted that this policy it has completely carried out. Unfortunately, however, there is not the slightest doubt that the act was passed in order to effectuate objects precisely the contrary of that restrictive policy attributed to it by the Commissioners. This appears from the following extract from the despatch of Lord Stanley to Sir George Gipps, No. 17., dated the 18th October 1841, that is, about eight months before the passing of the Land Sales Act:—
"Judging from what has taken place in South Australia, Port Phillip, and New Zealand,
"I have little doubt that in the yet unsold districts of the colony the imposition of a con-
"siderably higher price, at least up to twenty shillings per acre, *would not check the purchase*
"*of land*, and if not, would tend of course materially *to increase the amount* realized for the
"land fund, on the extension and application of which, at this juncture, so much of the
"prosperity of New South Wales may probably depend." Thus, then, this price is introduced because it will not check the sale of land; it is continued because it does check it:—it is brought in to increase the land fund; it is continued because it has destroyed it:—it was

Governor Sir C. A. FitzRoy to Earl Grey, 5th Nov. 1849.

brought in that more of the proceeds of land speculation might fall into the hands of the Government; it is continued because it has a tendency to put down land speculation altogether. Every one in this colony believed that the high price would destroy the land fund. It has done so, and now the Government tells the colonists that this was the very object it had and ought to have had in view.

Enclosure No. 2.

6.—The Commissioners say, "the amount of land already alienated by the Crown in "New South Wales, *and which therefore is already applicable for agriculture*, exceeds five "millions of acres." Here the Commissioners assume that every acre of land alienated by the Government is applicable to agricultural purposes, and then proceed to argue that no one would buy land except for the purposes of cultivation, and as more land was already alienated by the Crown than could be cultivated by the then population of the colony, the land market has become glutted, and a fall to a nominal price was inevitable; and the increased price of Crown lands could have had no other effect than perhaps the beneficial one of hastening this inevitable result. This argument is based upon two complete misapprehensions of fact. It is a mistake to say that the five millions of acres already alienated are applicable to cultivation, and it is equally erroneous to say that it was with a view to cultivation that such purchases were made. The five millions of acres so alienated are contained within the nineteen counties to each of which one million of acres were allotted, and which are some of the worst lands in the territory. Owing to the attractions of the splendid harbour of Port Jackson, the parts in its vicinity were the first colonized, and these, from the barrenness of their soil and the aridity of the climate, are some of the least eligible lands in the colony. Cumberland, the metropolitan county, contains nine hundred and fourteen thousand acres, mostly alienated, and, except the valleys of the Nepean and Hawkesbury, of the poorest description. It would be tedious to pursue this investigation through the other eighteen counties, but every one possessing local experience will admit, that of these five millions of acres already alienated a very inconsiderable portion possesses that union of fertile soil and suitable climate which is necessary to carry on agriculture successfully in a latitude so nearly tropical. Nor was the cultivation of the soil the object for which these purchases of land were originally made; at the very time of the land mania the profits of pasture were so high, and the distaste for agriculture so great, that New South Wales, instead of being glutted, as the Commissioners supposed, with the produce of her own lands, was a large importer of wheat, not only from the neighbouring colonies, but from the remote shores of South America. It cannot be too often impressed upon the home authorities, that to apply to these pastoral colonies theories and arguments derived from the practice of agricultural colonies is to confound two things perfectly distinct, is as absurd as to attempt to carry on an agricultural farm with the order and method of a Manchester manufactory. It was not for agriculture alone, nor even principally, that the waste lands of the colony have been purchased. They were purchased, as is perfectly notorious here, for the purposes of pasture; and while the Government was content to allow to the purchaser a reasonable right of commonage on the adjacent unalienated land, and to demand a moderate price for the land alienated, the colonization of the country went steadily forward. Possibly the price paid, 5*s*. per acre, was even then larger than could be justified by the criterion suggested by the Commissioners, viz., the principal the interest of which would be represented by the profit; but this is always the case with regard to the purchase of land. The feeling which associates the possession of land in the mind of every Englishman with aristocratical birth and political power, the notion of stability belonging to its possession, and the natural wish to possess that with which the eye has long been familiar, have always rendered land a highly prized commodity. The present minimum price, however, has been amply sufficient to overcome all these predisposing causes. As soon as Government exacted the price which could only under special circumstances be paid for agricultural lands, it put an end to the previous system of sale, which had principally applied to pastoral lands.

7.—It may be readily conceded that if the whole pastoral lands of the colony were brought into the market at once, it would be impossible to find purchasers for them out of a community of 200,000 persons. In a limited community it is always in the power of the Government to glut the land market. It may also be granted that many of the witnesses examined before the late committee, who had possessed themselves of large tracts of land, showed an anxiety to depreciate its value precisely in proportion to the eagerness they had before exhibited to possess themselves of it. But these facts do not prove that Government are right in refusing, as they virtually do, by the Land Sales Act, to alienate land for pastoral purposes at all. The policy of fixing a somewhat more than agricultural minimum price upon a pastoral country is precisely analogous to demanding for agricultural lands a price which could only be profitably paid for town allotments. In the latter case either agriculture would be wholly destroyed, or if any system of cultivation without purchase were allowed, that system would speedily render itself equivalent to the fee simple. The effect of this would necessarily be the depreciation of all land already alienated, and thus it is that the refusal of Government to sell land, except at an impossible price, is most injurious to those who have already purchased, for although they are not subject to be undersold by Government, they are ruined by the far more dangerous and unfair competition of those who occupy lands which have never been *sold* at all. The fair trader may be so stringently protected as to be ruined by the competition of the smuggler. If land were a commodity like corn,

corn, for instance, which the owner has only to refuse to sell in order to deprive all other persons of any benefit from it, the prohibitory price would have vested a lucrative monopoly in the hands of former purchasers, but as Government by refusing to sell cannot prevent the land from being beneficially occupied, the prohibitory price only exposes those who have paid for land to an unfair competition with those who have not.

8.—The Commissioners proceed to argue that the effect of the land mania of 1837 and the following years was first to exhaust the means of those who were disposed to buy, and next to glut the land market with property which the purchasers could neither afford to cultivate nor to hold uncultivated, and which, therefore, they were obliged to sell at any price. These causes, they argue, must have produced a cessation of land sales, and the high price could have no effect, except that of hastening an inevitable result. The Commissioners appear to forget that they are speaking of a mania which for eight years has passed away, that the community which then consisted of 90,000 now numbers at least 235,000, that many of those who lost money by land speculation have since retrieved their affairs by other means, that many persons now possessing large capital in the colony had not arrived at the time when these reverses took place, and that capital has been found in the colony for banking, gas, steampacket, railway, and other companies, and for carrying on almost every other branch of industry with vigour and success. These considerations suffice to show that if land be not purchased, it is not from the exhaustion of our funds, but from the preference of other investments. No doubt land is reduced to a nominal price, but this does not arise from the inability to cultivate that which was never intended to be cultivated at all, but from the policy of the Government which, as explained above, has brought the unsold pasture lands of the interior into competition with the alienated pasture lands of the coast. The measure of the value of pasture land in New South Wales is not the Government price nor the profit of cultivation, but the terms on which an occupation of it for pastoral purposes can be obtained. The effect of a mere over-speculation in pasture land, which has always been occupied for the purpose for which it was purchased, would long since have passed away, but this effect is rendered permanent by a law which renders the fee simple worthless by making it unattainable.

9.—Even admitting, therefore, the truth of the remarks of the Commissioners with regard to railway speculations, your committee deny their applicability to the land sales of New South Wales. There is no analogy between them. Railway speculation was subject to the same vicissitudes as other speculations, only that as it had risen higher it fell lower. Land speculation fell at the same time with other speculations in this colony, but, unlike other speculations, it never rose again. The fall of railway projects was attributable, not so much to the causes mentioned by the Commissioners, as to the inability of the country to spare from its circulating capital the sum required to be sunk in the fixed capital of railways. Individuals were unable to pay their calls because the community was unable to pay the sums thus withdrawn from circulation. That which each shareholder individually might have been able to do, he was prevented from doing, because everybody else wanted to do the same thing. Railway projects are deferred, not from any doubt of their being a profitable speculation, but because the capital cannot be found for the investment. Land in New South Wales remains unpurchased, not because the capital cannot be found, but because every one considers land at the Government price an unprofitable investment. To make the case parallel the Commissioners should have shown that while railway speculations were diminishing other speculations were increasing, or else have contradicted the statement of the former committee of this council showing that the exports, imports, corn, and population of New South Wales had doubled, while the land sales remained almost at the lowest point of depression. This result is embodied in the following table, obtained by your committee from an official source.

A General Table of the Statistics of New South Wales (including the District of Port Phillip) from the year 1832 to 1848 inclusive.

YEAR.	Population.	Shipping Inwards.		Shipping Outwards.		Imports.	Exports.	Export of			Auction Sales.		Live Stock.			Land in Cultivation.	* Land Sales.	
		Number.	Tonnage.	Number.	Tonnage.	Value.	Value.	Wool. Value.	Tallow. Value.	Oil. Value.	Duty.	Amount.	Horses.	Horned Cattle.	Sheep.		Minimum Price.	Amount.
						£	£	£	£	£	£	£	No.	No.	No.	Acres.	s. d.	£
1832	53,524	189	41,350	194	42,857	604,620	384,344	73,559	- -	147,409	1,415	94,386	- -	- -	- -	- -	5 0	12,509
1833	60,794	210	50,164	218	49,702	713,972	394,801	103,692	- -	146,855	1,540	102,675	- -	- -	- -	60,520	5 0	24,956
1834	66,212	245	58,532	220	53,373	991,990	587,640	213,628	- -	157,334	2,327	155,156	- -	- -	- -	74,811	5 0	41,844
1835	71,592	260	63,019	269	66,964	1,114,805	682,193	299,587	- -	180,349	3,135	209,053	- -	- -	- -	79,256	5 0	80,784
1836	77,096	269	65,415	264	62,834	1,237,406	748,624	369,324	- -	140,220	4,697	313,171	- -	- -	- -	87,432	5 0	126,458
1837	85,267	400	80,114	402	78,020	1,297,491	760,054	332,166	- -	183,122	4,820	321,346	- -	- -	- -	92,125	5 0	120,427
1838	97,912	428	91,777	409	93,004	1,579,277	802,768	405,977	- -	197,644	6,137	409,166	- -	- -	- -	92,912	5 0	116,324
1839	114,386	563	135,474	548	124,776	2,236,371	948,776	442,504	- -	172,315	7,700	513,388	- -	- -	- -	95,312	12 0	152,962
1840	129,463	709	178,958	665	163,704	3,014,189	1,399,692	566,112	- -	224,144	18,701	1,246,742	- -	- -	- -	126,116	12 0	316,626
1841	149,669	714	183,778	690	172,118	2,527,988	1,023,397	517,537	- -	127,470	14,455	963,696	- -	- -	- -	115,130	12s. Sydney. 20s. Port Phillip.	90,387
1842	159,889	628	143,921	633	134,970	1,455,059	1,067,411	595,175	- -	77,012	10,291	686,088	- -	- -	- -	126,874	12 0	14,574
1843	165,541	558	110,864	564	110,026	1,550,544	1,172,320	685,647	9,639	72,989	6,818	454,565	62,017	1,017,316	5,055,337	145,653	20 0	11,297
1844	173,377	417	87,539	569	109,242	931,260	1,128,115	645,344	83,511	57,493	4,662	310,831	71,169	1,159,432	5,604,644	144,095	20 0	7,402
1845	181,556	597	105,352	614	103,961	1,233,854	1,555,986	1,009,242	102,746	96,804	6,068	404,542	82,303	1,348,022	6,202,031	163,331	20 0	18,451
1846	196,704	767	141,467	754	134,998	1,630,522	1,481,539	1,019,985	28,107	70,126	6,217	414,490	88,126	1,430,736	7,906,811	182,533	20 0	27,060
1847	205,009	878	154,904	933	168,664	1,982,023	1,870,046	1,272,118	108,186	80,528	7,061	470,781	104,271	1,614,967	10,071,625	164,784	20 0	62,801
1848	220,474	996	199,304	945	187,322	1,556,550	1,830,368	1,240,144	140,579	68,969	4,551	787,800	113,895	1,752,852	11,660,819	163,669	20 0	47,262
											Exclusive of the fractions of a pound.						Exclusive of the fractions of a pound.	

* Note.—In the year 1831 Lord Ripon's Regulations for the abolition of free grants, and the sale by auction of all Crown lands, were first promulgated in the colony.
1839.—In this year the minimum price was raised from 5*s.* to 12*s.* an acre, but did not extend to lands previously advertised at the former rate, of which there was a very large quantity at the time.
1841.—In this year the system of sale at a fixed price of £1 per acre was introduced into the district of Port Phillip.
1842.—In this year the system of sale by auction was resumed throughout the colony, at a minimum upset price of 12*s.* per acre for country lands, with liberty to select portions not bid for at the upset price.
1843.—In this year the minimum price was raised to £1 per acre, by the act of the Imperial Parliament, 5 & 6 Vict. c. 36., with liberty to select, at the upset price, country portions put up to auction and not bid for, or on which the deposit had been forfeited.

By this table it appears that the population of 1834 was about one fourth of the population of 1848, that the shipping was one fourth, while the amount of land sales is about the same. What stronger proof can be adduced how ill the minimum price has served the cause of colonization?

10.—The Commissioners state that they are fortified in their conclusion by observing, that notwithstanding the natural effect of an excessive Government price should be to enhance the value of lands in the hands of purchasers, directly the reverse has been the case. Your Committee have already anticipated this argument, by showing that the natural effect of an excessive Government price would be precisely the contrary; because land unsold is not therefore unoccupied or unenjoyed. If land were like salt, for instance, of which the East India Company can not only claim, but enforce the monopoly, the high price demanded for it would doubtless be beneficial to those private persons who had possessed themselves of the monopolized article. But if the only effect of refusing to sell salt under an excessive price were, that people who would willingly have paid a moderate price for it, rather than pay an excessive price used it without paying for it at all, then the Company's monopoly of salt would have a direct tendency to lower its exchangeable value. The measure of its value would be the quantity of labour required to obtain it, without paying the Government for it; not the excessive price demanded for it. It is thus that the outraged laws of political economy have avenged themselves, and the greediness of the Government in demanding more for its lands than they are worth has resulted in depreciating all land, alienated or not, far below its natural value. Your Committee agree with the Commissioners, that Government ought not to enter into a destructive competition with private landholders by underselling them; and therefore it is that your Committee deprecate the impolicy of introducing the far more ruinous competition which results from Government rendering the sale of their lands impossible, and the occupation easy.

11.—The Commissioners observe that the argument that a high price renders the colony less attractive to capitalists assumes the point in question, that a high price is detrimental to the colony; it is, however, a fact, that capitalists will not invest their money in these lands. All the arguments of the Colonial Office cannot persuade capitalists to do so; and this *proves*, but does not *assume*, the conclusion that the high price is detrimental to the colony.

12.—The Commissioners remark that the eagerness with which land is sought is not proportioned to its low price, and that, where the expense can be met, emigrants prefer Australia, where land is dear, to Canada, where land is cheap. They have, however, failed to remark, that though emigrants be found to prefer Australia to Canada, they do not prefer the dear land of the one to the cheap land of the other. The general practice of emigrants to Canada is to become purchasers of land, the practice of emigrants to New South Wales is the reverse. Indeed the most that can be said for the present price of land is, that although it has annihilated purchase, it has not wholly destroyed emigration, and that the attractions of the climate of Australia are so great as, in some measure, to counterbalance the impossibility of obtaining land.

13.—The land in New South Wales may be divided into three portions; first, land now available for cultivation; secondly, land not now available for cultivation, but which may by increased facilities of access and the influx of population be made so available; and the third and infinitely largest portion, *land which neither is nor ever will be available for any but pastoral purposes.* The assumption of the Commissioners is, that the second and third of these portions are identical. But even if they were so, no solid reason can be given why Government should forbear from selling land not at present available for agriculture until it reaches the precise value of one pound an acre. In this case the Commissioners have proved too much. Their argument would be just as cogent if the price were five, ten, or twenty pounds an acre. The same tendency to counteract speculation would exist; the argument drawn from railways would be just as applicable; the forbearance of Government in abstaining from competition with those who have already purchased land would be just as great; the argument to show that the high price does find favour with capitalists would be just as forcible; and, finally, the remark that land is not desired for its cheapness, but for its natural advantages, would be quite as pertinent. But the second and third of these classes are not identical. By far the largest portion of the lands of this colony, both which have been sold and which remain unsold, is untouched by any of these arguments. It is pasture land, and will always remain so. By soil, climate, and situation it is utterly unfitted for agriculture. It is not a question of time when it will become worth one pound an acre; it is perfectly impossible that it ever should attain that value.

14.—The Commissioners say, in recapitulating their argument, that it is impossible that by selling land at five shillings an acre a proportionate importation of labour can be obtained, and they state that if by a reduction of the present price *the occupation of more land were stimulated* wages would become so high as to render the profitable investment of capital impossible. So far from the first of these propositions being the case, it is the peculiarity of a pastoral country that the sale of its lands must provide it with infinitely more labour than the sold lands can employ. The sale of a section or square mile of land at five shillings an acre will yield one hundred and sixty pounds, which, at fifteen pounds a head, would bring out ten emigrants, and thus leave an ample superfluity to be employed in producing food for the community. The truth is, that while it is perfectly manifest that the sale of agricultural lands at one pound per acre cannot possibly introduce labour enough for their cultivation, and that therefore a colony which relies on a high price for labour must

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necessarily be pinched by the want of it, this evil can only be remedied by selling land which will not require for its occupation the quantity of labour which its price can introduce, and thus carrying the superfluity of the fund derived from pastoral to the relief of the fund derived from agricultural lands. So far from the sold lands of the colony not having introduced sufficient labour for their own profitable occupation, they have contributed very largely to introduce that labour which is employed in the occupation of the unsold lands. No fallacy can be greater than to assume, with the Commissioners, that selling the land stimulates its occupation. All the land of this vast territory is now occupied, and it depends upon the minimum price whether it shall be sold. Sale can be no stimulus to occupation, but occupation would be, at a moderate price, a great stimulus to sale, and sale, in its turn, would undoubtedly be a great stimulus to civilization. So far from the sale of an acre of land for the *bonâ fide* purpose of being employed in agriculture being any benefit to the land fund, it is directly the reverse, since the cultivation of that acre obviously absorbs more labour than its purchase money can supply. On the same principle, the sale of an acre of pastoral land is a direct benefit to the land fund, because it absorbs much less labour than its purchase money can supply; and as all the more accessible pastoral land is already occupied, whatever is obtained for its sale is almost so much clear gain to the land fund.

15.—In concluding their remarks on the report of the Commissioners, your Committee would observe, that although the parliamentary price has been in force for seven years, it has, according to them, had no effect at all. If the Home Government be sincere in this opinion, it is scarcely worth their while to persist in forcing upon the colonists a law which, though believed by them to be fraught with the most disastrous consequences, is in reality a nullity. If land be unsaleable at any price, it will be unsaleable at a reduced price. The truth of the theory may easily be tested by experience, and the refusal to appeal to that experience seems to argue a doubt of its truth. If land be equally unsaleable at five shillings as at twenty shillings, why not gratify the prejudice and enlighten the ignorance of the colonists by reducing it to five shillings? Again, if it be desirable that land sales should be renewed, are they not more likely to be renewed at five shillings than at twenty shillings? Admitting that it was wise to pass a law to check speculation in land, may it not be wise to relax that law now that speculation has passed away, and the consequent depression has lasted so long that it has become a chronic state of the public mind?

16.—Until this price is altered it will be vain to expect an immigration of capital to this colony. It is well known that cheap land is the great attraction to emigrant capitalists, and that for a supply of this land they always look to the Government, and not to private proprietors. They trust the good faith and disinterestedness of the one; they are pleased by the boundless selection which it offers, and gratified at being the first to subdue the wilderness to the use of man. By the other they expect to be overreached and defrauded, and they have a natural unwillingness to invest their capital in a place where their predecessor has failed. Thus it is not enough to attract emigrants that land should be cheap, unless that land be in the possession of the Government; and thus this absurd policy has rendered the land which emigrants desire to possess unattainable, at the same time that it has made the land they do not desire ruinously cheap. Such a policy must be doubly injurious to colonization; it withdraws all inducements from intending emigrants, and deters them by its impoverishing effect upon actual colonists.

17.—Your Committee see no reason to object to the details and policy of the Land Sales Act, which appear to them, in the main, judicious and equitable. If the principle, that suburban and town lots remaining unsold might be taken at the upset price, without another auction, as country lots now may be, were adopted, subject to a power in the Government to withdraw any such lots from sale when special circumstances should render it necessary; if the survey of land were always kept well ahead of the demand for it; and if the power of raising the upset price were exercised judiciously and sparingly, your Committee think the act would work satisfactorily. It is not the act itself; it is the absurd minimum price upon which it is intended to work which has rendered the carefully considered provisions of the statute almost useless. Your Committee believe that had the framers of this act possessed the same amount of local knowledge as of legislative skill, the price which would have been fixed on for the purpose of working out this act would have been 5*s.* an acre, and that this sum bears pretty nearly that proportion to the exchangeable value of an acre of land in Australia which the framers of the act supposed that 20*s.* would bear. Moderate and practical men, who adopt the policy of the Land Sales Act, who believe that it is not desirable that the lands of the Crown should be prematurely alienated before the spread of population has imparted to them exchangeable value, and that it is not desirable that the present small population of the colony should, to the exclusion of future immigrants, possess itself of its enormous territory, but who at the same time do not wish to see the settlement of the country arrested, tenure in fee simple almost eradicated from our institutions, casual and temporary occupation ripening into permanent ownership, and dispersion and barbarism increasing, instead of concentration and civilization;—men who hold these views,—the very views of the British Government,—are almost unanimous in thinking that the price of 5*s.* an acre, with a power to Government to raise it when necessary, would be amply sufficient to effectuate them. It must be remembered, that the mania for land speculation did not deceive the colonists alone, that it was upon the basis of the inflated and fictitious value which that mania gave to land that the price

price of 1*l.* per acre was established. It appears from Lord Stanley's own words, as quoted above, that it was from the prices realized at land sales that his Lordship was led to conclude that the price might be raised to 1*l.* per acre. Without these data this price is a mere arbitrary sum, and no reason, as remarked above, can be given in favour of it which will not apply with equal cogency to any price however extravagant. So far as the price of 1*l.* per acre is founded on these data, it rests on premises manifestly and confessedly false. With what reason or consistency can it be argued that the land speculations of 1840 were the offsprings of the wildest and most reckless folly, and yet that a valuation founded on those speculations, and those speculations only, ought to be retained?

18.—Thus the colonists are at issue with the Home Government, not on a question of political or economical science, but on the exchangeable value of a commodity regulated by local circumstances, of which the most ordinary intelligence on the spot must necessarily be a better judge than the most enlightened statesman in Europe. Your Committee earnestly hope that a practical point of this nature, brought now for the fourth time under the notice of the Imperial Government, by a Committee of the Legislative Council, and about which there never has been any material difference, either in or out of that body, will at last receive a favourable consideration. To allow the opinion of the colonists no weight in this matter is to set aside dear-bought experience in favour of what has been shown to be baseless theory. It is those who live under laws, not those who make them, who are best able to judge of their expediency; and some credit ought to be given to the sincerity of those who will be the first to feel the bad effects, if any such there be, of the alteration which they seek for. It may not be the duty of the Home Government to yield a facile assent to every fluctuation of colonial opinion; but surely it is their duty not doggedly to resist, on a local and practical question, the firm and deliberate conviction of a large, intelligent, and enterprizing community. The interests of the colonists and the Home Government are identical. It is the interest of neither that land should cease to be sold; it is the interest of neither that this great instrument of colonization should be forestalled and pre-occupied. Agreeing in their ends, they differ as to the means. The Home Government think the end can be effected by a price of twenty shillings per acre; the colonist by a price of five shillings. The Home Government base their calculations on the prices of a year of frantic speculation; the colonists on the practical experience of all years before and since. On this local and practical question which of the two is more likely to be right?

II. THE TEMPORARY OCCUPATION OF LANDS.

19.—In considering the temporary occupation of Crown lands, your Committee observe, that the prohibitory minimum price renders this subject both important and complicated; important, because the terms of an occupation which is to last till an impossible event become in reality the permanent conditions of the tenure of landed property; and complicated, from the vain attempt to engraft an equitable and coherent system on a principle manifestly erroneous and impracticable. It is the effect of this fundamental error, the assumption, namely, that land can be sold for a price which it will not and cannot fetch, that in any regulation having reference to sale Government necessarily gives more or less than it intends. Thus, when Parliament gives a pre-emptive right to the squatter at a price not less than one pound an acre, meaning to concede a substantial boon, it really gives him nothing; and when Government gives to the purchaser of Crown lands a right to occupy adjacent sections at a fixed rent until sale, meaning to give him only a temporary privilege, it really gives him a permanent ownership. If the return to the minimum price of five shillings an acre be desirable, for the reasons given in the former part of this Report, it is not less so on account of the facility and simplicity which it would introduce in the regulations for temporary occupation. That code has unavoidably become so complex that no one professes to be able to understand it; and considering that it is intended for the guidance of persons whose avocations require but a moderate share of intellectual attainments, and who are scattered over the remote interior, this complexity is no inconsiderable evil. The power of purchase is the natural corrective of the imperfections of such a code. If the price of land be reduced to a practicable sum, the colonist is secured that nothing worse can happen to him than a purchase at that price; but where purchase is impossible, however great be the case of individual hardship, and such cases must necessarily occur, he is without a remedy.

20.—Whether wisely or not conceded, your Committee frankly admit that the squatters are entitled to the benefits designed for them by the Parliament and the Privy Council. There is however among the squatters themselves an increasing feeling of dissatisfaction, and grave doubts are expressed whether these concessions, with all their concomitants, are not likely to be more injurious than beneficial to the class for whose advantage they were intended. It therefore becomes worth while to consider how far these doubts are justified by the facts, and to suggest, if possible, such a modification of the present system, as by varying its details may more effectually carry out its objects. The benefits offered to the squatters by the land orders seem to be:—first, a renunciation of the claim to increase their licence fees at the will of the Government; secondly, compensation for improvements; thirdly, a pre-emptive right at 1*l.* per acre; fourthly, a lease for eight or fourteen years, according as the run is situated in the intermediate or unsettled districts. The first two are so obviously just and reasonable, so easily carried out, and so beneficial in their effects, that no one could reasonably suggest an alteration in them. But the third, a pre-emptive right at 1*l.* per acre, is, as has been already

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already observed, utterly illusive and valueless; and the fourth is, when narrowly considered, a very questionable advantage.

21.—The lease must, if it is to be a legal document, contain an accurate description of the land which it conveys. That description can only be derived from a survey; that survey can only be made at a very considerable expense; and that expense is to be borne by the squatter. Whatever may be the case with individuals, it seems extremely doubtful whether the squatters, as a class impoverished and embarrassed by high wages and low profits, can raise among themselves the expenses of the survey of the land which they occupy. Moreover, the difficulty and expense of survey is generally precisely in proportion to the badness of the run. In mountainous districts the boundaries following the line of the country are tortuous, and therefore long; those natural boundaries which were amply sufficient to mark the limits of two neighbouring sheepwalks or cattle runs furnish but inaccurate data to the surveyor. Accustomed to throw out of consideration all but the available parts of their run, the squatters are struck with consternation at being called on to pay for the survey of large desert tracts from which they have never derived any advantage, but which often double or treble the linear extent of their boundaries. For an illustration of these difficulties, your Committee would refer to the letter from Sir Thomas Mitchell to the Colonial Secretary, dated 1st November 1848, appended to this report.

Appendix B.

22.—Then, supposing the lease to be issued, the land can neither be cultivated for the purpose of sale, nor sub-let. Grave legal doubts are entertained whether it can be mortgaged, assigned, or devised, or whether in each of these cases the runs must not be declared vacant, and put up to tender, and whether in an ejectment by the lessee it might not be competent for the defendant to dispute the power of the Governor to make the lease, by showing that the land in question was not in the possession of the lessee at the time of issuing the land orders, and thus to re-open those very questions which they were intended to close. These observations apply with greater force to squatters in the intermediate than the unsettled districts. An opinion is gaining ground that very few leases will be taken out, and that, independently of the expenses of survey, the change from a licence to a lease is a change for the worse. The old system, whatever were its faults, was free from all the inconveniences above enumerated. The title to the land being indisputably in the Crown, no legal question could arise between the squatter and the intruder on his run. The questions between them were purely questions of fact; no expensive surveys, no legal technicalities, no formal instruments encumbered their rights; and if their tenure was precarious as against the Crown, it was at any rate burdened with no conditions unfavourable to the enjoyment or transfer of property. The squatter is now enabled to exchange his tenancy at will for a lease for years, but by so doing he will certainly diminish his power of turning the land to account, and probably the security of his position as against intruders. The smallest run which the squatter can occupy must be capable of carrying four thousand sheep. This must aggravate the difficulty, already great, of realising such property, by limiting the number of purchasers. There is a tendency towards the subdivision of large flocks and herds, arising from high wages, which render the labouring class willing to buy, and from low profits, which render the proprietor willing to sell; but from this market, created for him by his own misfortunes, the squatter is excluded by these regulations.

23.—Considering these circumstances, which press so heavily upon this valuable class of colonists, your Committee would suggest that instead of these expensive and burdensome leases the price of land should be reduced to five shillings per acre; the squatter should be permitted to remain in occupation of his run on the present terms, till required for sale; that instead of his present worthless right of pre-emption, he should be allowed a pre-emptive right at a rate of not less than five shillings per acre over the whole of his run, subject to the same regulations as the present pre-emptive right; and in case he should be unable or unwilling to exercise that right, that he should be allowed compensation for his improvements. Such a plan, your Committee believe, would, without calling upon the squatters for the expenditure of a single farthing, confer upon them far greater benefits than the present land orders. In exchange for a worthless pre-emptive right, and a lease which will serve far more to embarrass than to secure them, it offers them a really valuable pre-emptive right, and an occupation probably in most instances far longer than the lease would give.

24.—In considering the temporary occupation of land within the settled districts, your Committee will advert to two leading regulations. The first, that which vests in the proprietor of a square mile or section the right to occupy three adjacent sections of land at a fixed rate of ten shillings per section till required for sale; the second, that which vests in the proprietor of thirty acres of land a right of commonage over the remaining section. Both these regulations have been objected to, as giving excessive privileges to the proprietors of land, but, as it appears, without sufficient reason. It must be remembered that the local Government which framed these regulations knows well that under the present law the sale of land is impossible. If this country were happily undergoing a permanent settlement like America, if the occupants of Crown lands were only a few years in advance of that wave of population whose annual progress in the United States has become a matter of calculation, the business of the local Government would have been to have framed few and simple regulations which would have made the occupation of these lands as profitable to the community, and as easily displaced, to make way for the purchaser, as possible; but the business of the Government has been here to provide for the occupation of land in a

country

country where sale has ceased, to prevent that scramble for land which in the absence of title must continually take place, and to divide the territory as equitably as they can among its present occupants. The principle of this division was laid down by the Home Government by the large territories which it has conceded to the squatters. It seemed unjust to place the purchaser of land in a worse position than the occupant without purchase, and the principle having been extended to purchasers of large quantities of land, its application could not well be denied to smaller proprietors. Thus in the attempt to benefit each class individually is the interest of the whole colony and of colonization itself unavoidably sacrificed.

25.—From this view of the present management of Crown lands, it clearly appears that by rendering sale impossible a struggle for land has been introduced among its present occupants, and that in this struggle the interests of the community have been disregarded. What inducement does this colony, so rich in natural resources, offer to the emigrant capitalist? Government will sell him land, but only at an impossible price. Private proprietors will sell him land, but the land in the hands of private proprietors is, as has already been observed, some of the worst in the territory; he must therefore content himself with some lower kind of interest in land, the nature of which it will be difficult for him to understand, and when understood impossible for him to reconcile to his feelings and prejudices.

26.—In a recent report of the Lords of Her Majesty's Privy Council their Lordships contemplated that municipal bodies will be erected in proportion to the progress of settlement in the country; but their Lordships should clearly understand that if by settlement be meant the occupation of newly purchased land, there is no progressive settlement in this country. Such a settlement of the country has stood still ever since the passing of the Land Sales Act, and must stand still till it is repealed. Flocks and herds have extended, and may extend yet further into the remote interior; lands already alienated may be more carefully improved and more thickly peopled; but the proprietor of land knows well that if he take upon himself the burden of municipal taxation he must bear it alone; that as long as the price of land remains as it is there will be no new proprietors to bear it with him. The first step towards the establishment of municipal institutions is the lowering the price of Crown lands. In conclusion, your Committee would remark, that though the representations of colonists, when they tend to a premature division of the waste lands of the colony among its inhabitants, are naturally looked upon with distrust, when those representations have an opposite tendency, when the colonists come forward to warn the Government that they are virtually transferring the land to its present occupant, and are sacrificing the interests of intending emigrants, they are entitled to every respect.

III. THE PRESENT APPROPRIATION OF THE LAND FUND.

27.—Under this head your Committee proceed to consider the expenditure of the funds of this colony for the purposes of immigration. The practice of the expenditure of the land fund for this purpose has hitherto been to expend the whole of the funds at the disposal of Government for the introduction of labour, to contract a large debt for the same purpose, and then to desist from immigration altogether until the debt is paid off, and the land fund has again a considerable sum at its credit, and then to re-commence the same process. No attempt has been hitherto made to supply the colony with a continuous stream of immigration; we have had a succession of floods, each succeeded by its corresponding drought. The resumption of immigration is a cause of panic to the labouring classes; its discontinuance to the employers of labour. Immigration comes to be looked upon as an occasional incident rather than a necessary part of colonial administration. As the tendency in the colonial labour market is invariably in favour of the labourer, the cessation of immigration is attended with the most disastrous results to the employer of labour; it is not merely that his labourers raise their demands, but his power over them is seriously diminished. If it were only for the sake of the moral effect it produces, it is desirable that immigration should be continuous, and that whatever reduction is necessary to be made in its quantity, in order to secure its continuity, should be made. The time also seems to have arrived when the public mind in England has become sufficiently alive to the importance of emigration to recognize the unquestionable right of the colony to an efficient assistance from the mother country in removing her surplus population to a land where they not only obtain remunerative employment, but become immediately the largest consumers of English manufactures. It appears by the evidence of the immigration agent, that not only is the land fund exhausted, but a debt of £75,000 is also contracted, while the demand for *rural* labour remains unabated. Under these circumstances, your Committee cannot but regard with apprehension the prospect of a total cessation of immigration. These considerations lead your Committee to the conclusion, that the time has arrived when the importation of immigrants to New South Wales, entirely at the expense of the colony, ought to cease. Your Committee recommend that no colonial funds be advanced for the purpose of bringing out immigrants, unless they both satisfy the regulations at present in force with regard to persons brought out at the expense of the colony, and are also able to contribute something towards the expense of their passage. What that sum should be your Committee cannot pretend to suggest, but would leave it to the discretion of the Commissioners, being well aware from painful experience how impossible it is to regulate on one side of the world the details of business to be carried on at the other. Your Committee would however remark, that it might be judicious, in the first instance, to require but a small sum, and when the practice has been

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established, gradually to increase it. Great as is the inconvenience which the colony must undergo in checking the immediate supply of labour, which, notwithstanding the importation of 18,000 persons, she still so urgently needs, it is better to make a firm stand at once, and not to go on indulging the ridiculous hope, that while the colony is willing to pay the whole of the expense of bringing out labour any one will be so quixotic as to share it with her. It is moreover absolutely necessary that the advantage of emigration to this colony should be kept constantly before the British public, and this can never be if the subject is suffered to go to sleep while funds are accumulating for the resumption of emigration.

28.—Your Committee remark with regret, that a practice is becoming frequent among immigrants of defrauding the colony of the benefit which she has a right to expect in exchange for the great benefit which she confers. Although every intending immigrant is required to sign a paper by which he professes his willingness to work for wages in the colony, many persons have availed themselves of a free passage to make this colony a stepping stone to reach the neighbouring settlements, in which they have friends or relations. The much greater facility of reaching California from this colony than from England has also induced many persons to obtain a free passage here, in order to immediately proceed to that fancied El Dorado. Your Honourable Council has not felt justified, under the existing regulations, in requiring from these persons a repayment of the passage money thus fraudulently obtained; but there can be no doubt that if full notice were given to the intending emigrant that he would not be allowed to leave the colony without refunding his passage money, one of two good results would be produced; either persons contemplating such frauds would not apply for passages to this colony at all, or if they did it would be in the power of your Honourable House to devise such measures as would prevent the fraud from being carried into execution. Your Committee therefore recommend that distinct notice should be given by the Land and Emigration Commissioners to all intending emigrants, that they will be required to refund their passage money before leaving the colony. To pastoral and agricultural labourers such a condition would not be likely to be distasteful, and we require no others to be brought out at the public expense. Indeed, the fact of a person objecting to such a condition would seem to be a very fair test of his fitness to receive a free passage.

29.—To assisted immigration, as hitherto practised, your Committee entertain the most decided objection. They are of opinion that the persons so introduced are absolutely worthless to the colony, and in some instances even positively injurious. The principle of waiving the regulations in favour of a person wholly unadapted to any purpose of rural industry because somebody is willing to advance a small sum to get rid of him has resulted in total failure. The only labour which the colony requires to be brought out at its expense is pastoral and agricultural; mechanics it already possesses in abundance. For pastoral and agricultural labour and for single female immigrants the demand is practically inexhaustible, but every shilling which is withdrawn from this purpose to import any other kind of labour deprives us of that which is necessary in order to deluge us with that which is worse than superfluous.

30.—Another objectionable feature in this assisted immigration is its extreme liability to abuse. It appears that the funds of this colony have been employed in removing from the scene of their offences persons implicated in the darkest crimes, who have rendered secret and disgraceful services to Government. It is not enough that transported felons are again cast upon our shores at the expense of the Home Government; our own land fund has been made the means of bringing hither a gang of ruffians of the most desperate and hardened character. It appears from the evidence that ten persons, deeply implicated in the chartist riots at Ashton-under-Lyne, one of whom is believed to have been the murderer of the policeman Bright, were placed on board the emigrant ship by the police, who watched the vessel till her departure; that their conduct on board the ship and on shore was of the most ruffianly and disgraceful character, and that for the importation of these persons and their families a sum of 350*l.* was charged on the land fund of this colony. Your Committee trust that this matter will receive a searching investigation, and that, whatever be the result of it, the expense, so unjustifiably incurred, will be refunded to the colony.

31.—It has been suggested by the Secretary for the Colonies that a loan on the general revenue should be contracted for the purposes of emigration. So long as the land fund is placed at the disposal of the Lords of the Treasury, your Committee consider such a proposition inadmissible. The unassisted efforts of this colony for the purposes of emigration have already been prodigious; indeed if it were not for the large commissariat expenditure in the neighbouring colonies, which prevents the drain of bullion which would otherwise take place, the system must, long ago, have led to the most fatal monetary results. To organize two systems of immigration, one under the management of the Home Government, the other under that of the Legislative Council, would be to create endless confusion. Till the colonists are thought worthy to be trusted with the appropriation of their own land fund, it would be as impolitic as undignified to raise sums in supplement of that expenditure. It is from the wages of labour the general revenue is principally derived, and it would be unfair to employ such a revenue in bringing in labour to compete with them. The land fund, on the other hand, is principally raised from the employers of labour, and there is nothing unfair in employing that fund for such a purpose; besides, the land fund, if properly administered, would be a sufficient security for any loan that might be required for immigration.

IV. CLAIMS OF THE COUNCIL TO THE CROWN LANDS REVENUE.

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32.—Your Committee have already intimated their opinion upon what principle the management of Crown lands ought to be conducted. They have intimated that they are quite prepared to acquiesce in the principles of the Land Sales Act, with the single exception of the minimum price, and they have shown in what respects they think the 9 & 10 Vict. c. 104. might be amended. Should the remonstrances of your Committee at last produce any effect upon the Home Government, a result which after so many disappointments they scarcely venture to hope for, they suggest that the readiest way to effectuate the wishes of the colonists would be to pass an act enabling the Council to amend the act 5 & 6 Vict. c. 36., and 9 & 10 Vict. c. 110. This power it might be easy for Her Majesty to control by instructions to the Governor, and, with this guarantee for its exercise, in accordance with the spirit of the Imperial Act, your Committee apprehend that such a power might be safely and very beneficially conceded to your Honourable council. If this be not done, numberless applications to the Imperial Parliament will become necessary. A railway cannot be established without one imperial act; a university cannot be endowed with another. If the Land Sales Act were once brought into extensive operation, by lowering the minimum price, various improvements of detail would suggest themselves, which might with great advantage be carried out on the spot, as in the working of the land orders many matters which could not be foreseen till they came to be applied might well have been amended by the local legislature.

33.—Your Committee cannot conceive on what constitutional principle Parliament has imposed upon this colony a civil list, and yet withheld from the local legislature the appropriation of the land fund, the equivalent for that civil list. Neither can they understand why the local legislature, to which is intrusted the appropriation of the ordinary revenue for the purpose of public works, would not be equally able to expend that moiety of the land revenue which is devoted to the same purposes. They are perfectly satisfied that those funds which are expended under the sanction of a legislative body are much more economically expended than those which are intrusted to any department of the Government. The Lords of Her Majesty's Treasury appear to them by no means a fit body to provide for the local wants of the territory of New South Wales; and they cannot but think it probable that were the control of the land fund under your Honourable House the enormous sum of 33,000*l.* would not be annually expended on the survey, sale, and management of Crown lands.

34.—From the placing that portion of the land fund applied to emigration at the disposal of the Home Government serious evils have arisen. The colony and the Home Government have an equal interest in promoting emigration; but in apportioning the expense their interests are opposed. It is the interest of each to make the other pay as much as possible. In the adjustment of these conflicting claims the colony has been virtually unrepresented, for the Colonial Minister who represents her is still more closely connected with the Home Government. The consequence was such as might be easily foreseen; the colony has paid all. Over and over again has she spent all her available funds, and involved herself heavily in debt, for this object. Had these funds been at the disposal of the Legislative Council, there is no doubt that long before this a system would have been matured by which the Government, the parish, the emigrant, and the colony would have contributed equally to that in which they were equally interested. But the emigrant was there to defend himself, the Government had its ministers, and the parish its guardians; and so upon the colony the whole weight of emigration fell.

35.—Another subject connected with the territorial revenue is that of quit rents. Upon the renunciation of this claim the existence of the towns of Liverpool and Paramatta depends. Many estates upon which large sums of money have been spent are not worth the sum required for their redemption. The quit rent of two-pence an acre on inferior land, such as most of the grants of the Crown contain, is a rack rent, and something more. The liveliest sympathy is felt throughout the colony for the case of those who are suffering under an impost which the fall in the value of property has rendered so intolerable; but the remonstrances of your Honourable Council have been met from home with the remark, that it would be unjust to the colonists at large to remit those quit rents, to the benefit of which, as part of the land fund, they are entitled. Your Committee apprehend that the proper way to decide this question would be to submit it to the consideration of the local legislature, who, acting on behalf of the colonists at large, would be responsible to their constituents if, without their sanction, they gave up any revenue to which the colonists considered themselves justly entitled. Your Committee therefore recommend, that the power of carrying out the appropriation of the land fund, directed by the act 5 & 6 Vict. c. 36., should be vested in your Honourable House, as the body best qualified to control the expenditure on public works and departments, as the body most fit to represent the colony in any negotiation with the Home Government on the subject of emigration, and best able to decide between the community and the individual in any local question in which their interests may be supposed to clash, and most interested in spending the land fund for the purpose of colonization.

ROBERT LOWE,
Chairman.

Legislative Council Chamber, Sydney,
2d October 1849.

Governor Sir C. A. FitzRoy to Earl Grey, 5th Nov. 1849.

Enclosure No. 2.

Appendix to the Report from the Select Committee on Crown Lands.

APPENDIX (A.)

Letter from the Chairman of the Colonization Commissioners for South Australia to the Right Honourable Lord Glenelg.

My Lord, South Australian Colonial Office, 12th October 1836.

The Colonization Commissioners for South Australia request permission to state to your Lordship, that they have received a communication from Mr. Angus, chairman of the South Australian Company, to the effect that he has learned from unquestionable authority that a design is on foot for the purpose of inducing, by the temptation of high pecuniary advantages, the shepherds and agricultural labourers sent out to the colony of South Australia by the money advanced by the purchasers of land in that province to migrate to the settlements recently formed on that part of the coast of New Holland which lies east of South Australia and south of the located territory of New South Wales.

In the first annual report the Colonization Commissioners earnestly besought your Lordship's attention to the paramount importance, as respects the prosperity of the new colony, of rendering the cardinal principle upon which it is founded uniform and permanent throughout all the adjacent districts of New Holland to which British settlers may resort; and at the personal interview sought by their chairman, on learning that Governor Bourke had been instructed to sell the lands in the neighbourhood of Port Phillip at a reduced minimum price, he ventured to express to your Lordship the alarm which he felt lest this measure should prove destructive to the colony of South Australia.

The communication received from Mr. Angus renders it the duty of the Commissioners to recur to this subject, and to detail to your Lordship the grounds of their conviction, that if the public lands on the south-east coast of New Holland be not disposed of in such a way as to provide a supply of labour proportionate to that supplied to South Australia serious injury and injustice will be inflicted, not only on the purchasers of land in South Australia, but also upon the holders of South Australian revenue bonds.

When the lands of South Australia were offered for sale at twelve shillings per acre, hundreds of miles of unexplored forest intervened between the new colony and the settled districts of New South Wales, in which land could be obtained at a lower price, while the ample supply of convict labour obtainable in those districts diminished the demand for hired labour, and kept wages at a moderate elevation. Under these circumstances there could be little to induce the free labourers sent out to the new colony to migrate into the settled districts of New South Wales, and to associate their virtuous families with a convict population. But those favourable circumstances under which the lands of South Australia found ready purchasers at twelve shillings per acre exist no longer. The south-east coast of New Holland, adjoining the province of South Australia, has been opened to settlers, not only at the inadequate minimum price of five shillings per acre, but at any lower price which the Governor may choose to fix; while it does not appear, as far at least as the Commissioners have been able to ascertain, that any provision has been made for supplying those settlers with convict labour. The consequence of this change must be, that in the settlements upon the coast adjoining South Australia there will be an intense demand for free labour, with a proportionably high rate of wages, and that the desire on the part of the emigrant labourers sent out to South Australia to participate in those high wages will not be counteracted by the dread of convict association.

The Commissioners are therefore apprehensive that under these altered circumstances it may be found impracticable to retain within the colony that supply of labour for the sake of securing which the lands were purchased at twelve shillings per acre.

Honoured as they have been by your Lordship's confidence, and responsible as they are for carrying out the intention of the legislature to those with whom they have made contracts, many of whom have embarked all the little property they possess in the purchase and settlement of land in the colony, the Commissioners feel that they would fail in the faithful discharge of their duty did they not solicit the attention of your Lordship to the disastrous effects which the altered circumstances above detailed are calculated to produce upon the prosperity of the province with the colonization of which they are charged.

In adjoining districts, between which communication is easy, prices find a common level. On this obvious principle, it appears impossible that the system prescribed by the legislature for the colonization of South Australia, and the system recently applied to the south-east coast of New South Wales, should co-exist in the same vicinity.

If the lands on the south coast of New Holland, adjoining the new colony, be sold at five shillings per acre, or less, land of a similar quality in the new colony cannot be sold at twelve shillings per acre; and if the emigration fund, created by the sale of land, throws into the new colony a more abundant supply of labour than that which is given to Portland Bay, Western Port, and Port Phillip, the emigrant labourers sent out to the new colony will be drawn off, until throughout the settled districts of the southern coast the supply and the price of labour shall be equalized.

The

The Commissioners believe that such would be the inevitable results of keeping the south-east coast of New Holland open to settlers, even at five shillings per acre; and they submit that such results would be equivalent to a confiscation of the property which has been embarked, under the sanction of the legislature, in the establishment of the colony of South Australia.

When the legislature enacted that the lands of South Australia should be sold at not less than twelve shillings an acre, and that the proceeds of the sale should be employed, without deduction, in conveying labour to the colony, and when His Majesty appointed a commission to carry those enactments into effect, the faith of the Governmant became pledged not to nullify the provisions of the Act of Parliament, by extending to the vicinity of the new colony regulations having the effect of reducing the value of its land below twelve shillings per acre, and of depriving the purchaser of the supply of labour, the furnishing of which was the main condition of the sale.

When, in obedience to your Lordship's instructions, the Commissioners communicated to the purchasers of the land the intention of His Majesty's Government to place the emigration fund at the disposal of the Treasury, a strong feeling of disappointment and dissatisfaction was excited; and the Commissioners apprehend that a feeling similar in kind, but greatly aggravated in degree, will be excited amongst the purchasers of South Australian land, and the holders of South Australian bonds, as soon as it becomes known to them that the south-east coast has been opened to settlers, at a price as much below five shillings per acre as Governor Bourke may think proper to determine.

Deeply impressed with the importance of the considerations now submitted, the Commissioners would request, that, should their representations be found conformable to fact and to principle, your Lordship may be pleased to adopt such means as to your Lordship may seem most expedient for establishing, throughout the southern coast of New Holland, that uniformity with respect to the price of land and to the supply of labour which may be necessary to give effect to the system which the legislature has prescribed for the colonization of South Australia; and that in order to avert the danger which has been already created, a supply of labour proportionate to that which has been furnished by its emigration fund to South Australia may be furnished to the settlements on the south-east coast, either by means of loans raised on the security of their unsold lands, or by such other means as in the judgment of your Lordship may appear more expedient.

We have, &c.
(Signed on behalf of the Commissioners,)
ROBERT TORRENS,
Chairman.

The Right Honourable Lord Glenelg,
&c. &c. &c.

APPENDIX (B.)

LETTER from the SURVEYOR GENERAL to the COLONIAL SECRETARY.

No. 48–478.

Sir, Surveyor General's Office, Sydney, 1st November 1848.

With reference to a question you put to me, when I had the honour of attending the Executive Council on the 19th September last, relative to the employment of contract surveyors, when you apprised me of the necessity for advertising for contracts, I have the honour to state that in order to obtain a knowledge of the extent of the survey work required to complete the measurement of squatters runs, I directed that the contents of each individual run should be squared, with the intention of allowing two thirds more for irregular, natural, or non-quadrilateral boundaries, and the calculations have enabled me to submit a table of the results on which I have founded an estimate of the work to be performed by surveyors, to which I have added some suggestions as to the manner in which these may be most economically employed.

I have, &c.
T. L. MITCHELL,
Surveyor General.

The Honourable the Colonial Secretary,
&c. &c. &c.

MEMORANDUM.

The area of the runs in the thirteen districts attached to Sydney having been squared, and the external boundaries roughly calculated, it is found that the boundaries would extend to 35,441 miles.

Allowing an addition of two thirds more for the sinuosities of streams, and the zigzag measurement of mountain ranges, as boundaries; and taking from this estimate one third, in allowing for conterminous boundaries, *one third* only need be added for indirect boundary lines. Dividing, therefore, 35,441 miles by 3, gives a quotient of 11,813, which, added to the first, makes 47,254, or say, in round numbers, 50,000 miles.

Governor Sir C. A. FitzRoy to Earl Grey, 5th Nov. 1849.

Enclosure No. 2.

The number of miles which a surveyor could mark in a year, taking an average of all kinds of difficult country, is supposed to be about 500, so that it would take one surveyor 100 years to mark the runs. Suppose, for the sake of facilitating the calculation, that we had ten surveyors in the field (rather than nine, the actual number now in the field), it would take these ten surveyors ten years; add a contractor to each, making twenty surveyors, and it would take five years.

It is estimated, that in consideration of distance, difficulties from natural obstacles to chain measurement, and the cost of labourers required, even for protection, that contracts would not be undertaken at less than two pounds per mile; at that rate, if a surveyor measured and marked 500 miles in a year, each contract surveyor would cost one thousand pounds per annum; those of the department cost each about one thousand pounds per annum. The total expense of measuring the runs, according to this estimate, would amount to one hundred thousand pounds, that is, 50,000 miles at two pounds per mile.

The aggregate area of all the runs amounts to 41,732,000 acres, say forty-two millions, which at a penny per acre would amount to one hundred and seventy-five thousand pounds, so that a halfpenny an acre would be the average rate coming nearest that of two pounds per mile; thus showing how unsatisfactory the superficial extent per acre is for determining the cost of boundary measurements, at least on an extensive scale.

The superficial contents of the thirteen districts amount to 156,386,000 acres. There are about 100 runs still to be announced, besides new ones now being almost daily taken up.

The difficulty of finding expert contract surveyors, and the expense of employing such, on their own means, and, when paid per mile, of subjecting them to the direction of officers of the department (if that were the method to be adopted), the necessity for adjusting the payment according to different descriptions of country, across which the boundary lines have to be marked, are circumstances which induce me to recommend as a better course that one or more surveyors on temporary salary should be attached to each officer of the department, according to the work to be done in each district (in about half of them no such additional surveyor seems required), that the departmental surveyor should send in a contingent account for all extra expenses incurred by the employment of assistants, such as rations, labour, &c.

I feel assured that if ranges are to be taken as boundaries of runs, they must be surveyed or thoroughly examined, as in no other manner can the features forming a water shed (for example) be clearly enough defined for insertion in a lease. Any discrepancy on such points would render the lease void, and cause confusion and litigation, to obviate which, the first expense (I would submit) would be the most economical to the public at large.

T. L. Mitchell,
Surveyor General.

Superficial Contents of Districts and Runs.

Name of District.	Area of District.	Area of Runs.	Miles of Boundaries.
	Acres.	Acres.	
Moreton Bay	5,664,000	1,155,000	840
Clarence River	5,152,000	1,860,000	1,516
M'Leay River	2,400,000	487,000	575
Darling Downs	23,680,000	2,781,000	1,760
New England	6,528,000	5,319,000	3,879
Gwydir	6,656,000	4,448,000	3,037
Liverpool Plains	13,520,000	5,975,000	4,664
Bligh	7,616,000	2,892,000	2,945
Wellington	16,122,000	3,174,000	2,860
Lower Darling	31,424,000	292,000	316
Lachlan	15,168,000	4,550,000	4,405
Morumbidgee	18,432,000	7,239,000	5,711
Maneroo	5,024,000	2,715,000	2,933
Total	156,386,000	41,732,000	35,441

41,732) 156,386 (4
166,928

One fourth of the whole area is applied for.

Enclosure No. 2.

Minutes of Evidence taken before the Select Committee on Crown Lands.

Thursday, 5th July 1849.

PRESENT:

Charles Cowper Esq. in the Chair.

The Speaker,	Edward Hamilton Esq.
The Colonial Secretary,	James Macarthur Esq.

John Badcock Esq. called in, and examined:

J. Badcock, Esq.
5th July 1849.

1. *By the Chairman.* You have recently arrived in the colony from England?—I arrived here five weeks ago.

2. Before you left England you had acted as secretary to the Colonization Society?—I had, for a period of about eleven months; in fact, from the time of its formation.

3. Did you hold the office until you left England?—I did.

4. Can you state to the Committee shortly what are the principles of the society?—Yes. It was thought by some gentlemen connected with this colony, particularly by the Messrs. Boyd, the Honourable Francis Scott, M.P., and others, that something might be done in the way of assisting emigration without applying entirely the funds of this colony towards it, and that persons comparatively ineligible for free passages under the rules of Her Majesty's Commissioners of Emigration should pay a certain sum, and be allowed passages; it was supposed that a larger number of persons would be able to emigrate by this means than if the colonial funds only were applied. This society came into operation in the February of last year, and corresponded with the Land and Emigration Commissioners on the subject.

5. Was the object of the society limited to assisting emigrants?—Not entirely; it was also to afford information regarding Australia, as far as it could.

6. Were they successful in carrying out the objects you have spoken of?—They were. After the correspondence with the Commissioners, which I have before alluded to, the society obtained a promise that the board would take parties considered eligible by the Colonization Society, at a certain scale of payment. They were to be of the labouring class, though not strictly agricultural labourers. If they were between the ages of fourteen and forty, 6*l.* would be required; from forty to fifty, 8*l.*; from fifty to sixty, 10*l.*; and if above sixty, what was considered the full contract price, namely, 14*l.*, was to be paid. For children 10*s.* per head was required, provided there were not more than two children below seven, or three below fourteen years of age, in a family; for each child in excess of this number, 7*l.* 10*s.* This arrangement was made in the month of April, and from that time until I left England the society were sending large numbers weekly to the Commissioners, who received some, and refused very few, not five per cent., of those who were sent by the Colonization Committee; and on paying the required sum they were sent to these colonies. They were not entirely London people that were sent; some were agricultural labourers, who were ineligible on account of age, number of family, &c., and in some of these cases the amount of their passage money was paid by the landlord; for example, the Honourable Sidney Herbert paid the required passage money for a number of shepherds who were ineligible on account of their age, when he had given up a sheep farm in Wiltshire.

7. Were the persons sent generally persons with large families?—Generally they were, but all kinds of persons applied; three days were appointed for the sitting of the committee, and from 100 to 300 on each of those days applied to the committee.

8. Personally, or by letter?—Personally; but when the society became known in the provinces, many country persons applied by letter.

9. How were the funds raised which were paid towards the emigration of those parties?—The parties had to raise the funds themselves in many instances, but we did not know in every instance how the money was raised; the sum supplied by the society was, however, very small. In some instances, as I have stated, the passage was paid by the landlords, and in very few instances, I have known perhaps half a dozen, by the unions in which the applicants resided.

10. The chief advantage of this society then was, to have an office in London, and a body of gentlemen acting as a committee who had sufficient influence, upon the applicants paying a portion of their passage money, to get them passages to this colony, who could not have got passages in the ordinary way by the emigrant ships?—Yes.

11. Were any steps taken by the society to create a feeling in favour of emigration?—Yes; they held meetings in London and in the provinces, which they considered a sort of advertisement in favour of emigration to Australia; the object and effect of this was to create a feeling that Australia was to the labourer *a change for the better*, and also to get rid

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J. Badcock, Esq.

5th July 1849.

of the surplus population; and I think the former of these objects was effected, for after each meeting a larger number used to apply to the committee for passages.

12. *By the Colonial Secretary.* Was any difficulty experienced in getting perfectly eligible persons who could themselves pay their own passages?—I think eligible persons could not supply the means, and I think the landlords would hardly be able to supply the amount required.

13. Do you think there would be a disposition to emigrate on the part of really eligible persons if free passages were granted?—Decidedly; the greatest desire to emigrate to Australia exists amongst all classes of labourers.

14. What is the present rate of wages in England?—I think the highest in Somersetshire is about 8*s.* a week, and the average is 7*s.*, and in Dorsetshire it is even less.

15. What does that include?—Nothing except a cottage to live in, and a small piece of garden ground; they are also allowed to purchase wheat at 6*s.* a bushel.

16. They pay for that?—Yes; that is taken at a fixed price of 6*s.* a bushel, but it is not the best wheat, it is what is called the "tail wheat."

17. Have they to grind it themselves?—They have in some cases; where the mill is upon the estate the farmer, I believe, grinds it for them at a nominal price.

18. Have the labourers the means of obtaining butchers meat?—I do not think they take butchers meat once a year, beyond a little bit of bacon.

19. *By Mr. Hamilton.* I suppose they have a little skim-milk cheese?—Yes; I have inquired into this matter as much as I could myself, but I have never lived among labourers and seen them every day, but my brother, however, who has done so for many years, knows that frequently from one year's end to another they do not taste a bit of meat.

20. *By the Colonial Secretary.* Do you consider the class of persons who have been brought here under this system of assisted emigration eligible to the wants of the colony?—From what I have learnt of the wants of the colony since I have been here, I should say decidedly not; that they are even a drug; and that many will themselves be disappointed with the colony, because they are not available for and are averse to that kind of labour for which so great a demand exists here.

21. Your opinion then is, in point of fact, that it would be better for the colony to pay the whole passage money of eligible persons than to receive this class?—Much better, as assisted emigration is carried on at present.

22. *By the Chairman.* Do you think the Colonization Society is likely to carry on its proceedings?—I think its mission was chiefly to create a feeling in favour of emigration, and that mission is accomplished now.

23. You do not think it is likely to be a permanent association?—I should much doubt it; at all events not in its present character.

24. Might not such an association find a very beneficial sphere of employment by keeping up constantly a feeling in favour of emigration to these colonies?—I think at present the feeling is so great that it would hardly be desirable to increase it; even in the agricultural districts, where the benefits likely to arise from emigration to Australia were for many years comparatively unknown, from the ignorance of the people and their inability to read, they are now perfectly aware of the benefits to be derived from it.

25. *By the Speaker.* Do you think persons have been deterred from coming to this colony from a prejudice arising from its former convict character?—I have seen a great many applicants for assistance in emigration to these colonies, but I never heard that subject referred to; transportation to this colony having ceased, and its resumption not having been mooted up to the time of my leaving England.

26. In the event of this becoming a penal colony again, do you think that would prejudice emigration?—I can hardly say. I think there would be at least this feeling in the minds of labourers desiring to emigrate, that the parties transported here would become competitors in the labour market; and I may state that the wish of nearly every applicant who has applied to the committee for an assisted passage has been either to go to Adelaide or to Port Phillip; I do not think one per cent. of the applications were for passages to the colony of New South Wales. I am, however, of opinion that a great deal of that feeling arose from the advertising system which was carried on in favour of the two colonies I have mentioned; the Adelaide people had a little work which was published weekly, which was a sort of advertisement of that colony, and the district of Port Phillip had a strong party at home.

27. *By the Colonial Secretary.* In cases where emigrants are of an eligible description, do you think they greatly improve their condition by coming here?—I think all such as have taken situations in the country have improved their conditions; but in coming to the Committee this morning I met two persons who had come out here as labourers in the same ship with me, who stated to me that they had been unable to get employment.

28. Did they refuse to go into the country?—They were determined, as they said, to try their luck in Sydney before they went into the country.

29. Were

29. Were either of those assisted emigrants?—One of those was a man who had described himself as an agricultural labourer, and had applied for a free passage; he had, however, been a clerk in Scotland; when he was seen at the depôt by the inspector, it was immediately discovered that he was not an agricultural labourer, and he was compelled to pay 6*l.*; this was done in several other instances. In one case a person who had represented himself as an agricultural labourer had a gold chain round his neck, and when he was asked if he knew what a plough was, he was not able to describe it; he is now loitering about Sydney, and expressed his disappointment at the colony; he said he should endeavour to get into some store in the country; when this man was compelled to pay his passage money, he was obliged to exchange a bill upon one of the banks for 300*l.* This information was obtained by me from the doctor.

30. *By the Speaker.* Have you any means of knowing what they bring with them?—Yes; in the vessel in which I came to the colony there were, after we got to sea, a few little thefts, and the parties on board deposited their funds in the hands of the doctor; one deposited 10*l.*, but generally the sums were very small; there were two or three of those small capitalists, among whom was this party with 300*l.*

31. Can you form an opinion of the amount brought altogether by these people?—I should think it did not average, taking out the large sums I have mentioned, above 2*l.* or 3*l.* each.

32. If one man brought 300*l.*, that would form a considerable portion of the sum you have mentioned?—That would make about 1*l.* each; but many had not a farthing, and had to borrow money from their friends to pay for their passages and outfits.

33. *By the Chairman.* From what you have seen since you came to this colony do you think the Colonization Society have correct information as to the class of persons required here?—I do not.

34. Do the society classify the persons whom they send, and select those who are most eligible, or is the simple standard by which they regulate the sending out of persons, whether those persons can pay the money or not?—That was the case at first, but after some time the Commissioners found that we had sent them a large number of the class of carpenters, and they ceased entirely to send that class; afterwards I think it was found that we had sent too many tailors. I think there were about 100 tailors sent out.

35. *By Mr. Hamilton.* Were there not a great number of persons on the committee practically acquainted with the wants of the colony?—There were; and some expressed their fears of its answering; but the greater number of the members who were totally unconnected with the colony carried the measure. The Honourable Mr. Scott was strongly in favour of assisted emigration, and he thought every person should be sent out upon paying a smaller or larger sum in proportion to his eligibility or non-eligibility, but the Commissioners refused to adopt this fluctuating scale.

36. *By Mr. Macarthur.* Do you know any instance in which persons who have come out to this colony under the assisted system of emigration have been unable, since their arrival, to get any employment?—I met with a young man this morning, who is a tanner; I believe he is very poor; he has a wife and two young children, one one year and another three years old; he stated that he had tried everything in Sydney, and could get no employment here as a tanner; but he has also been a carpenter, and he has had very great difficulty in obtaining an offer to go up the country; I told him that if he would give me his address I would immediately get him an offer. I do not think there is any *young single man* who came out in our vessel but might have got employment if he had chosen to have gone up the country, even the most ineligible. I was on board the vessel when the men were being hired, and I saw men refuse 22*l.* a year; the case was different, however, with families.

37. Did you not hear from the emigrants on their passage out here that they would not give any person their labour under 40*l.* a year?—Some said "they had not come to "Australia to earn merely 20*l.* a year, as they could get that in England."

38. *By the Chairman.* Do you think that when they said so they were under the impression that they would get with the 20*l.* a year lodgings and rations?—Yes; they were acquainted with that, and they knew very well that the rations were worth as much as their wages.

39. *By the Speaker.* Was the Colonization Committee well informed as to the rate of wages in this colony?—The society was made aware from time to time of the rate of wages in the colonies, but was careful in committing itself by giving very exact information to applicants. Information was not often asked on this point; but many applicants had, I know, extravagant ideas as to the rate of wages here, and all imagined that it was immaterial in what capacity they went, for that they were certain to obtain high wages.

40. *By the Chairman.* You think the society might have been misled by those people?—They might. I do not, however, think that persons connected with this colony did mislead them.

41. *By the Colonial Secretary.* I think you have stated that a great part of the persons who came out under the system of assisted emigration were London people?—Generally they were.

42. Were

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42. Were there amongst them also persons from other towns?—Latterly there were. There were branches of the Colonization Society established at Birmingham, at Brighton, and at Dorchester, for the purpose of obtaining people from those places. These branches were established at the suggestion of the Commissioners, who stated that emigrants were going from London in too large a proportion, and that it was desirable they should be taken from other parts of England.

43. Is it not reasonable to expect that persons who have been accustomed to a town life should wish to remain in a town?—Yes; and from what I heard on my passage to this country from people on board the vessel, there was a great dread of going into the country. The men used to ask questions about the blacks and dogs, and they evidently did not know what Australia was; and it appeared to be the wish of every one, as they said, to try their luck in Sydney before they went into the country at all. Two or three days having elapsed between the time of the ship anchoring in the harbour and the hiring commencing, the men got so tired of being on board the vessel that they were glad to get away. They had also heard bad reports from various persons who had come on board, and who had said that things were not so prosperous in Sydney as they had been led to expect. In consequence of these circumstances some of them were glad to accept situations to go into the country.

44. *By the Speaker.* Had they an idea that there were no other towns in the colony besides Sydney?—I think they were very ignorant of the topography of New South Wales.

45. *By the Colonial Secretary.* Were the assisted emigrants principally persons with families?—Yes.

46. Did any single persons come under that system?—Yes, taking the population generally there was a very fair proportion, perhaps chiefly men with large families.

47. What was the class of females coming out?—A great number of dressmakers; we had several dressmakers on board our ship; and that was the class who generally applied for *assistance.* Domestic servants have *free* passages granted them.

48. *By the Chairman.* Were those persons generally in the prime of life?—Yes; the single women were.

49. Do you know what the cost to the colony was of the emigrants you brought out with you, or to what extent the funds of the colony were saved by those means?—I have no means of stating that, because there is a great desire among the emigrants to conceal what they paid, or whether they had assisted or free passages.

50. While you were secretary to the Colonization Society was any movement made on the part of parishes or unions to contribute to the expense of emigration?—I had a good deal of correspondence with the parish of Marylebone upon the subject. Before we had commenced our operations, while in fact the Society was in the course of formation, one of the gentlemen who belonged to the committee, Mr. Arthur Mills, had promised a certain number of labourers belonging to the parish of Marylebone, conditionally, a free passage to Australia. He applied to the Commissioners, who refused them a free passage. After our society was organized the Commissioners offered to receive them upon the same terms as people from our society, and Mr. Mills paid a large sum of money out of his own pocket, and the men were sent out. He applied previously to the parish of Marylebone for some assistance, that the whole expense might not fall upon him, as they were men who were generally out of work, plasterers, masons, and one or two carpenters, who had been dependent upon the parish for out-of-door relief, but at that *moment* were earning a very small pittance. I carried on the correspondence, but at length the board said they could not give any assistance, because the other parishes would not do the same, and that if they sent out persons from their parishes they would have a number of people coming unto them in order that they also might be sent. The Board also refused on the ground that the men were not at *that moment* on the parish.

51. Do you think, from what you saw of the proceedings of the Colonization Society, that an extensive system of emigration is likely to be carried out by means of the united efforts of various parishes and unions?—No. The parishes are fully alive to the advantage of emigration; and many, at the suggestion of the Colonization Society, which wrote to every chairman of the several unions in England, sent petitions to the House praying for *extended* emigration; but I think the present law of settlement is a great obstacle.

52. *By the Colonial Secretary.* This could only be done by Act of Parliament?—Only in that way, and not by any measure on the part of the unions themselves.

53. *By Mr. Macarthur.* Do you think the pressure for emigration is likely to be so great as eventually to force the parishes to take up the matter?—When I left England the state of things was very bad, but was assuming a rather better aspect than it had presented for some time before. During the year 1848, owing to the disturbed state of Europe, there was a larger amount of unemployed labour than had ever been known in England.

55. *By the Speaker.* Does Canada compete to any extent with this colony as a field for emigration?—There is not a favourable feeling in England for Canada as a field for emigration, but the Irish go there in considerable numbers, because they can get there cheaply.

56. Is the Cape of Good Hope a favourite field? No; Australia is most generally preferred.

57. *By Mr. Hamilton.* How do you account for the feeling which you say is entertained against emigrating to Canada?—I think it is owing to the very large influx of Irish emigrants, very few English will go there now.

58. *By the Colonial Secretary.* In fact, the field is pre-occupied by the Irish emigrants? —Yes.

59. *By the Speaker.* There is a vast emigration to the United States, is there not?—Yes; but the emigrants thither are almost entirely Irish, and a few small English capitalists. I may mention, however, that we have very little to do with capitalists at the Colonization Society.

60. *By the Colonial Secretary.* Were the objects of the Colonization Society confined to Australian emigration?—No; there was a wish on the part of many members of the committee that the society should not have the appearance of a party concern, and, therefore, they were anxious to extend the benefit of their society as far as they could to all the colonies. Just before I left I had some communication with Mr. Walcott, Secretary to Her Majesty's Commissioners of Emigration, with reference to emigration to the Cape of Good Hope; but his answer was, the Commissioners had no funds at their disposal for that purpose.

61. Was the emigration to be confined to New South Wales or to be extended to all the other Australian colonies?—Nothing was said about Van Diemen's Land or New Zealand. The three Australian colonies were to be treated as one.

62. *By the Chairman.* You have had the Adelaide interest working with you?—Yes; it was a principle laid down, that no inducement was to be held out to applicants either to go to one colony or to another, because the members of the committee were interested in the different colonies. Some were entirely interested in South Australia, others entirely in Port Phillip, and others in New South Wales. At one time there was some desire to divert the stream of emigration to South Australia by people who were shareholders in the South Australian Company.

63. *By Mr. Hamilton.* You have said that not one in 100 who applied to the society were desirous of coming to New South Wales?—Yes.

64. Then if the directors did not use their influence to induce parties to come here, how is it that they came here at all?—A form of application was sent into the committee, stating where the party applying desired to go; and, as I have said, ninety-nine out of 100 applied for a passage either to Adelaide or Port Phillip; but the Land and Emigration Commissioners used to say that we must send a certain portion of emigrants to New South Wales, and, therefore, if you want a passage you must go there.

65. Did New South Wales Proper get a worse selection of emigrants than the other colonies in consequence of this feeling?—No; the selection was perfectly fair.

66. *By the Chairman.* Do you think those persons had any particular reason for selecting Adelaide or Port Phillip, or do you think it was owing to their being so little acquainted with Sydney, and to their hearing more of the other colonies?—Yes; they have heard more of South Australia and Port Phillip from the cheap publications to which I have referred.

67. *By Mr. Hamilton.* You think there was no feeling against the colony from its having been a penal settlement?—Not at all; Adelaide was the chief favourite.

68. *By the Chairman.* Did you ever hear the price of land stated as a reason for not coming here?—Constantly.

69. *By the Speaker.* What is the general feeling in England on the subject of the price of land?—I think the feeling among the poorer classes was not so much against the price of 1*l.* an acre as against the system which they believed to exist of not selling land in small allotments. In Adelaide they could get land in very small allotments, but the general opinion was that in New South Wales land was sold only in blocks of 640 acres.

70. Are any means taken to disabuse the minds of the people of that impression?—No, I think not.

71. *By the Chairman.* Were there the means in your office of removing this impression? —Occasionally. I think nearly every emigrant who applied and asked something about the colony wished to know whether it was true that they could not get small allotments in this colony, as it was well known that in Adelaide they could get small portions.

72. *By Mr. Hamilton.* Did you know that yourself?—Yes; but I believe not one of the committee knew it until I applied to the Commissioners for information upon the subject.

73. What was the reply?—It was to the effect that small portions could be got from the Government, and also that land could frequently be bought from private individuals at less than 1*l.* an acre.

74. That was mentioned by the Commissioners as an inducement to people to emigrate to this colony?—I think it was mentioned by letter, but of that I am not certain; it was, however, privately mentioned to me by the officials at the Commissioners office.

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—
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75. *By the Speaker.* With regard to the price of land itself, have not the people any objection?—I think the labouring class did not think about it; the middle class are only now beginning to feel interested about it. Until last year nothing was thought in England about Australia. I do not think it excited any interest, except in the minds of people connected with the colony. In 1848 attention began to be turned to the colony; and a strong feeling of disapprobation is springing up in the minds of the middle classes at the high price of land.

76. Do you think the high price of land has deterred any small capitalists from coming to this colony?—Yes; I think they go to the United States.

77. They are induced to do so by the low price of land there, and the high price here?—I think so.

78. You think the feeling of disapprobation at the high price of land in this colony is pretty general in England?—I think it is; but I do not think that one person in 10,000 in England knew anything about the price of land until within the last year or two; but now I think it is becoming more generally known every day.

79. You say that the high price of land has deterred small capitalists from coming; has it had the effect with large capitalists?—I cannot speak as to that, as I have not had means of judging with reference to that class of persons.

80. *By Mr. Hamliton.* People with 2,000*l.* to 3,000*l.*?—I think it is a drawback to those people.

81. Have you heard the high price of land made a matter of conversation?—Constantly; both publicly and privately; and I have never heard two opinions about it. The opinion of the public generally is that the price of land in this colony is exorbitantly high; some of the members of the Colonization Society have written against it.

82. *By the Speaker.* You do not hesitate to say that the high price of land has prevented capitalists from coming to this colony?—I do not.

83. *By the Chairman.* Had you any inquiries while you were in the office of the Colonization Society with reference to the remitting of monies to this colony by persons who were desirous of emigrating here?—Very seldom.

84. Do you think any facilities that might be offered for that purpose would induce parties to come here?—I do. There is considerable difficulty at present, because the rate charged at the banks is very high, and persons are afraid to bring out sovereigns with them on account of the risk of loss.

85. *By the Colonial Secretary.* Is there any way you would suggest to facilitate the remittance of capital?—I think that a Government order, if it were given at par, would, from its respectability, induce small capitalists to adopt this mode for the conveyance of their funds, and remove an obstable to, and a tax upon, the emigration of this desirable class. I may mention that capitalists generally get from five to ten per cent. premium in taking bills of exchange upon Canada (Upper), exclusive of the difference in the currency, which is also in their favour.

86. *By the Chairman.* Do you think the interest of the public was increasing in the operations of the society or otherwise?—I do not think it was increasing when I left.

87. The excitement is over, and the society is beginning to flag?—Yes; but not so the desire of the labouring class to emigrate.

88. *By the Speaker.* The feeling of the gentlemen who formed the association was beginning to flag?—I cannot say that; but the subscriptions were decidedly flagging.

89. *By the Colonial Secretary.* Would you confine the means you have suggested for the remittance of capital to persons with small capital, or would you extend it to others?—It would be as great a boon to the one class as the other.

90. Do you know what the banks charge now?—Two per cent. premium to remit to this colony from London, and three from this side to London.

91. *By Mr. Macarthur.* Are you aware whether the Land and Emigration Commissioners have prepared statements of the rates of wages, the price of provisions, and the house rents in the various colonies?—They issue a circular about once every two months, which is, if true, a very excellent and compendious little document for the labouring class; it is sold at the price of two-pence. There is a tabular view of the rates of wages, the prices of provisions, clothes, and house rent in the North American Colonies, the Cape of Good Hope, and the various Australian Colonies.

92. Has your attention been turned to these statements?—Yes; and I have sometimes thought that the publication of such a document *might* be attended with this injurious consequence, that the price of labour mentioned there might lead persons to form expectations which would not be realized upon their arrival in the colony; and that if they received less on their arrival than the rates stated they would be disappointed with the colony.

93. Do you remember the comparative price of labour, as stated in that circular, in the various colonies?—Wages were stated to be the highest in the Port Phillip District.

94. What

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94. What were the prices of the necessaries of life; tea, sugar, slop clothing, and so forth?—I think very much the same throughout the whole of the colonies. The rent of a cottage for a labouring man was highest in the Port Phillip district, I think.

95. Would you be good enough to state the price of meat, of flour, tea, sugar, and other things at Adelaide, Port Phillip, and Sydney, as stated by the Commissioners in their tabular return?—I have not the circular in my possession, but I believe that, with the exception of articles of clothing, the contrast was in every view in favour of the two former colonies; but I am only speaking from memory.

96. Do you not think upon examining this circular that the labouring class would be induced to give their preference to a colony where the necessaries of life were cheapest, if the rate of wages were the same?—Yes; and if Adelaide had the preference in this respect it would have been quite sufficient to have determined parties to have emigrated thither. There is another circumstance which I would beg to mention to the Committee, and which might have influenced parties in their determination to emigrate to other colonies, and not to emigrate to New South Wales; it was not known in London that there was any place provided for the reception of female emigrants in this colony, but there was an advertisement in the Commissioners circular that there was such a place at Adelaide, and stated that a committee of ladies was formed, consisting of Mrs. Bagot, Mrs. Giles, and Mrs. Farrell, to receive them, and to look after their interests. It was therefore considered by ladies and gentlemen at home that Adelaide was a far superior place for female emigrants to go to from that circumstance. When I came here I was surprised to find that a barrack was provided for their reception, and that every attention was paid to their comfort, and to procuring them respectable situations.

97. *By the Colonial Secretary.* Are you aware that a committee has been appointed, formed of clergymen of various denominations, and other persons of high respectability, for the purpose of seeing that the females are properly taken charge of?—I did not know that until my arrival here; but I have since been made acquainted with the fact, and I have learnt that every care is taken of them.

98. *By the Chairman.* Had you much communication with the Colonial Office?—Our principal communication with the Colonial Office was with the Colonial Land and Emigration Commissioners; everything was done through them and their secretary Mr. Walcott.

99. Have you never had any communication with the Colonial Office personally?—No; on some occasions two or three members of the committee had communications with the Colonial Office, but what took place I could not say.

100. *By Mr. Hamilton.* Can you state who those gentlemen were that did communicate with the office?—One was the Honourable Francis Scott.

101. *By the Chairman.* Was the Colonial Office generally accessible, and willing to receive any suggestion of the Colonization Society?—There was some objection at first to assisted emigration, and a good deal of correspondence took place; but at length the Commissioners yielded to the pressure of the Colonization Society; it was, however, I think rather against their conviction.

102. Do you know the grounds upon which it was objected to?—That it would not be beneficial to the interests of the colony.

103. Are you now of that opinion?—I am.

104. Did you ever hear it remarked, or was it a matter of observation with you, that the Colonial Office very readily gave attention to persons from the colonies?—I think the feeling in England was rather the reverse; it was, that they did not pay any great attention to people coming from the colony.

105. Have they not, as a matter of fact, on some occasions entered into communication with persons of no standing in this colony?—Yes.

106. Did you ever hear any explanation of that?—No; but I have heard that they were sometimes extremely difficult of access, at other times I know they were extraordinarily accessible; the testimony of persons of no standing has I know been received, while that of persons of greater weight I have heard was not attended to.

107. *By the Speaker.* Can you give any solution of that anomaly?—I cannot.

108. *By Mr. Hamilton.* I suppose that any application coming from Mr. Scott would have been received at the Colonial Office as an application from the authorized agent of the colony?—I think so; the office was always open to Mr. Scott.

109. And any recommendation coming from Mr. Scott would be considered as a recommendation coming on sufficient authority?—I think it would have weight; but I would not say it was a recommendation coming on sufficient authority.

T. B. Duggan, Esq.

THOMAS BLAKE DUGGAN Esq. called in, and examined:

1. *By the Chairman.* How long have you been resident in the colony?—About twelve years.

2. In what district have you resided during that period?—In the Southern, Northern, and also in the Western district.

3. Have

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3. Have you been at Port Phillip?—I have not resided there, but have seen the country,

4. Where have you been residing recently?—On the Lower Murrumbidgee.

5. Is there much want of labour in that part of the country?—There is a scarcity of labour.

6. How is your supply of labour obtained; from Sydney or from other directions?—From the Adelaide, Melbourne, and Sydney districts; there is a flow of labour from Adelaide and Melbourne as well as from Sydney.

7. Is the supply equal to the demand?—It would nearly be if all the men were employed who are able to labour, but, in consequence of the practice of entertaining them at the various stations, many of them will not enter into agreements, but wander about the country.

8. How do they exist?—They live at the different huts.

9. By extra rations?—The high rate of wages enables the men to draw extra rations for the support of their friends. The system I have alluded to is one that will be likely to wear itself out; it will find its own remedy.

10. *By the Speaker.* Do you consider the country fully occupied in the district in which you reside?—It is fully occupied with stock.

11. What are the capabilities of the country about the Lower Murrumbidgee and Darling for supporting an agricultural population?—It can hardly be depended upon at all to support an agricultural population, from the unfavourable nature of the soil and climate.

12. *By the Chairman.* How are you supplied with flour?—From Melbourne or Adelaide.

13. What distance is your station from Adelaide?—About four hundred miles.

14. Do you get flour from Adelaide?—No; from Melbourne.

15. *By the Speaker.* You say the country is fully occupied with stock?—I am certain it is.

16. Can you form any idea of the ratio of the quantity of land to the stock depastured on it?—It is a very thinly grassed country; I think it would take five or six acres to feed a sheep, taking the whole country good and bad, allowing for dry seasons, and taking the average of ten or fifteen years, I think it would require even more.

17. Then you do not think you would carry on sheep farming under the regulations laid down by Government, that is to say, twelve thousand acres to each four thousand sheep?—I am sure no man could live by grazing if he were compelled to pay for the whole of the land he occupied.

18. When the new orders in council are brought into operation, and leases are granted for the waste lands of the Crown, what will be the practical result?—It is my opinion that no gentleman will then be able to derive a sufficient income from grazing to support his station in society, while at the same time a working man, assisted by his sons and daughters, may find it a sufficiently profitable occupation.

19. What do you think is the proportion of land to the stock occupying it at present? Do you think there is ten acres to each sheep?—I think the land may be occupied at present at that rate, but, owing to the scarcity of water in the back country, the occupiers of runs on the river have an almost unlimited extent of back country, which is totally useless seven or eight months in the year.

20. Do you think they will be allowed to occupy that after their leases are granted, without paying for it?—I think they will, because from the peculiar features of that district no person can settle down in the back country.

21. It does not therefore follow that it is to be occupied by the holders of runs on the river free of cost?—I do not see what the Crown can do with the land.

22. The law says you must not occupy land without paying for it?—I believe it would be very expensive to the Government to prevent it.

23. *By the Chairman.* Do you know what the Commissioner of Crown Lands for that district estimates as the average quantity of land required to feed a sheep during a series of years?—I am not aware.

24. What is the opinion of the settlers about that part of the country?—The same as my own; but that part of the country is not a fair sample of the country generally.

25. *By the Speaker.* If the Government regulations are carried out to the letter, your opinion is that the squatter will not be able to exist?—I am certain of it; none but a working man could live, except under some few peculiarly favourable circumstances.

26. *By Mr. Macarthur.* You mean a small proprietor who looks after his flocks himself?—I mean a resident settler, small or extensive, who makes the services of his sons and daughters available, either in looking after his flocks, dairying, or in some other way.

27. *By the Speaker.* What is your opinion with reference to the minimum price of land, do you think land is worth 1*l.* per acre?—I think the upset price of land can hardly be made too low.

28. You

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28. You have already stated that the land on the Lower Murrumbidgee and Darling rivers is exclusively adapted to pastoral purposes?—Yes.

29. You do not think any increase of population would render it fit for any other purpose?—No.

30. *By the Chairman.* Are you intimately acquainted with any other part of the country nearer to the coast?—Yes.

31. There are districts within the colony containing land capable of being appropriated to agricultural purposes, for which a higher price might be demanded than for the land you speak of; what would you conceive to be the value of agricultural lands within a reasonable distance of the coast?—I do not think any large block of land would yield a proportionate return, if 1*l.* an acre was paid for it, to whatever purpose it might be turned.

32. Supposing a district were subdivided into small farms, to be occupied by persons of small means, could not they afford to pay 1*l.* an acre for it?—Yes, in particular districts, where the various branches of grazing and agriculture could be combined.

33. What distance is the nearest place from the station where you have last been residing at which grain can be grown?—Two hundred miles or thereabouts, in the direction of Melbourne. It would not be profitable to grow wheat in the districts I allude to, because the crop would be so light and uncertain that it would be more desirable to buy it.

34. How far from Port Phillip do you think the country is suitable for agricultural purposes?—The whole of the Port Phillip district, excepting that portion which borders upon the Murrumbidgee and Lower Murray, is, I conceive, suitable for agricultural purposes.

35. What extent of country would you say is of that unproductive character you speak of?—I think about four hundred miles from east to west; and I do not know how much from north to south.

36. What distance is the nearest station from you?—Five miles.

37. Is there much competition among the settlers for shepherds?—There is no excessive competition now; the rate of wages is, I conceive, sustained not so much by competition as by the system of entertaining their friends adopted by the men.

38. You cannot check them?—No; but I think the evil will find its own remedy.

39. How do you get your men up?—When opportunity offers they come up from Melbourne and elsewhere, and act as a check upon the demands of the labourers already in the district. There are always sufficient men, or nearly so, moving about for the employment of the settlers.

40. Are there any large proprietors in your immediate neighbourhood?—Yes. Mr. Wentworth is the largest proprietor in my neighbourhood. Mr. Boyd's establishment is in the same district, and not very far distant from his.

41. Is it near Moulamein?—Yes.

42. Do they ever draft up large supplies of shepherds and other persons from the lower country?—Frequently.

43. Do they remain with them, or when their time has expired do they go to other employers?—If the rate of wages paid to them is lower than that usually paid in the district they not unfrequently abscond. Although they may have been hired at the lower rate of wages in Melbourne, the employers generally find it to their interest, when they get the men on their stations, to raise their wages to the current rate of the district.

44. How many sheep do you put in a flock?—From one thousand to fifteen hundred, and even two thousand five hundred.

45. Do you find that the sheep suffer from being in such large flocks?—No; but they require to be shifted to fresh runs, more frequently than if the flocks were smaller.

46. Then you have a watchman and shepherd for two thousand five hundred?—Yes.

47. What distance are the head stations apart?—From ten to twenty-five miles; the small stations are on the average from five to six miles apart.

48. What is the area of the largest station in your neighbourhood; the whole extent of land occupied, for instance, by the Messrs. Boyd?—I am not acquainted with the extent of land they occupy; the distance of river frontage is about seventy or eighty miles, but I am not aware of the extent of back country.

49. *By the Speaker.* Is it unlimited?—It is (with few exceptions) useless further back than from four to seven miles from the river.

50. *By the Chairman.* Is there a great deal of fine land in the country they occupy?—It is a good sound grazing country, but thinly grassed, and not fit for agricultural purposes. I believe their block of country comprises a few excellent runs.

51. Do you think the present system of regulations under the Land Orders will work beneficially or otherwise?—I think badly.

52. In what respect?—In checking private enterprise and industry,—by locking up land,

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and keeping capital out of circulation, and deterring men of capital from coming out from home.

53. *By the Speaker.* Do you think the high price of land has a mischievous effect?—I think it has a very bad effect upon the general prosperity of the colony.

54. Do you think it calculated to deter immigration?—Very much. Nothing, I conceive, would do more to deter men of capital from coming to the colony, or from investing money in the purchase of land.

55. Do you think its consequences have been socially and morally most injurious to the colony; do you consider that the colony will ever be properly settled while the present land regulations exist?—No. The effect of the present regulations is to keep the population of the country a mere skeleton, to be filled up hereafter under regulations more favourable to its increase.

56. *By Mr. Macarthur.* Do you think the district of which you have been speaking would be turned to better account under a proprietary system?—Most undoubtedly the country generally would, but the district in which I am residing is an exception.

57. It is only capable of being occupied as pasturage land?—Yes.

58. Upon what do the stock chiefly subsist?—They live principally upon the natural grasses and the salt bush; but in seasons of scarcity, when the grasses fail, they draw their subsistence entirely from the different varieties of the salt bush, and the leaves of the mallec scrub,—a sort of dwarf eucalyptus, which grows in dense clusters, and overspreads a great portion of the country. Wherever this mallec scrub exists there is neither grass nor salt bush produced, nor any other vegetable matter upon which stock could subsist. The salt shrubs serve all the purposes of rock salt for sheep, cattle, and horses.

59. *By the Speaker.* Are you not about to leave the colony?—Yes.

60. What induces you to come to that resolution; do you see no fair prospect of advancement in the colony?—I see no chance for a man to succeed without capital; and I think it is a dangerous country for a man to invest capital in, if he had it; chiefly from the effect of the land regulations, the precarious and fluctuating state of the wool market, and the high rate of wages.

61. *By the Chairman.* Do you find that land, after being occupied for grazing purposes a number of years, deteriorates, and does not yield a sufficient supply of grass?—If it is overfed, especially by sheep, it deteriorates, and it takes a long time to renovate it; but if it is only moderately fed upon it improves. The grazing capabilities of this country are found, in the course of time, to be far inferior to what the grazier is led to suppose during the first few years of his occupancy, consequently very many of the runs in the old districts are overstocked, and seldom turn out stock sufficiently fat for market; the longer the runs throughout the colony are used the greater is their tendency to become scrubby, and *so far* less valuable.

62. You said you had been in the Western district?—I mean the Bathurst country.

63. Do you find that district superior to others?—I think it is not superior; but the Bathurst, Mudgee, and the Wellington country are a fair average of New South Wales at large, the level salt bush country of which I have spoken excepted.

64. Do you think any land could be selected there portions of which might be set apart for agricultural purposes and sold to small farmers?—Yes; I think it could be done with advantage to supply the requirements of the surrounding neighbourhood, but not to send the produce to a distant market; consequently the cultivation must be to a limited extent.

65. *By Mr. Macarthur.* Have you ever been in the agricultural districts of the country?—Yes; but I am not sufficiently acquainted with them to be able to pronounce accurately on their agricultural capabilities.

Monday, 6th August 1849.

PRESENT:

Robert Lowe Esq. in the Chair.

Charles Cowper Esq.	James Macarthur Esq.
J. F. Leslie Foster Esq.	

J. M'Kirdy, Esq.

6th August 1849.

John M'Kirdy Esq., Master of the Ship Mary Bannatyne, called in, and examined:

1. You brought immigrants out to this colony?—Yes.

2. When did you leave England?—We left Plymouth on the 8th April.

3. Where did you take the emigrants on board?—Part of them at Deptford, and part at Plymouth.

4. We

4. We are told there were some immigrants of an objectionable character on board the Mary Bannatyne; what was the general character of those on board?—The majority behaved very well; there were a few bad characters, who behaved very badly.

5. Were the emigrants put on board at Plymouth well behaved?—Yes.

6. But some of those put on board at Deptford were not?—No.

7. Was there anything peculiar in the manner in which some of those from Deptford were put on board?—There was. I was not on board at the time, but the chief mate was.

8. What did you understand to happen?—The mate did not report it to me at the time, but he afterwards reported that they were put on board by the police.

9. By what police?—The Thames police, as I understood.

10. How many were placed on board by the police?—I cannot say the number exactly.

11. *By Mr. Cowper.* Can you tell the number of families?—I cannot; the chief officer will be able to tell how many there were.

12. Were these the parties whom you stated behaved so ill?—Yes.

13. *By the Chairman.* Were they placed under restraint by you?—Not during the voyage; they were treated the same as the other emigrants.

14. Will you mention the names of those who misbehaved themselves? — Eckersley, Winterbottom, Platt, and Latimer were the principal.

15. Were these all married men? — Yes. Latimer had three sons; two of them married.

16. Had he his wife on board?—Yes.

17. What family had Winterbottom?—A wife and family; Eckersley was married too, and had a family.

18. What was Eckersley's misconduct chiefly?—He was a bad character. They all made use of very improper language, and I had occasion to speak to them about it several times. I told them I would be under the necessity of putting them under restraint.

19. Did any of them proceed to actual violence?—Eckersley committed an assault upon one of the other immigrants, and attempted to throw him down the fore hatchway.

20. Did you learn from these men who they were?—Not from themselves; I had very little intercourse with them.

21. From whom have you heard anything of their former history?—From Dr. Swift and Mr. Duncan.

22. *By Mr. Macarthur.* I understood you to say they were not under restraint. Were you on board the ship in the river when she was moved?—Yes.

23. Do you recollect if any of the police, after leaving these parties, came on board a second time to inquire after them?—No, I do not. My orders were to proceed to Deptford, and take on board any emigrants that were there, without reference to whether they were put on board by the Thames police or anybody else.

24. *By the Chairman.* Do you know whether any more emigrants were put on board at Deptford besides these men and their families?—Yes; the number received at Deptford amounted in all to ninety-six and a half adults.

25. How many were put on board at Plymouth?—The number equal to eighty-six adults. We had 226 altogether, men, women, and children.

26. Had you any particular instructions as to these men?—No.

27. From whom did you receive your general instructions?—From Lieutenant Lane, who is employed under the Emigration Commissioners, and surveys the provisions, and the fittings put up for the accommodation of the emigrants.

28. Who is the principal owner of your ship?—The principal owner is Mr. James Bannatyne of Limerick.

29. I suppose by your contract you are placed under the orders of the emigration department?—Quite so.

30. *By Mr. Macarthur.* Did you ascertain whether these men were put on board by any proper authority?—There is another agent at Deptford, Mr. Smith, who musters the emigrants on board the ship, and takes cognizance of all that came on board. He gave me a paper containing the names of the emigrants, in which these men's names were included.

31. *By Mr. Foster.* Was Eckersley arrested for the assault you spoke of on his arrival here?—Yes.

32. What was the result?—He was let off easily.

33. What was the nature of the assault; was it not a most aggravated one?—Yes; he took one of the emigrants by the testicles, and tried to throw him down the hatchway.

34. *By Mr. Cowper.* You consider that Mr. Smith, the agent at Deptford, was the person who had the power of rejecting emigrants, if any person had that power?—Yes.

35. Who

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J. M'Kirdy, Esq.

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35. Who gave you the order to receive any emigrants, whether brought by the Thames police or other persons?—My orders were received from Lieutenant Lane, to take any emigrants on board that were at Deptford. Mr. Smith put those on board that were at the depôt, and gave me a paper made out by himself, but not signed by him, which contained their names and ages, and among them Eckersley and the others I have mentioned were included.

36. Mr. Smith acts under the authority of the Emigration Commissioners?—Yes.

37. *By the Chairman.* Do you think these people that were put on board at Deptford by the Thames police did much mischief on board?—Yes; the language they made use of below was very bad. I heard some of it one day on deck, and I soon put a stop to it.

38. Do you know what trades they were?—Principally manufacturers.

39. Do you know where they came from?—Principally from Lancashire.

40. *By Mr. Cowper.* Irrespective of their quarrelsome disposition, was their conduct generally insubordinate, and in opposition to every control exercised by yourself and the officers of the ship?—It was as much as they dared to show. We kept them under, and insisted on their complying with the rules and regulations of the ship.

41. They were distinguished above the rest of the emigrants by a desire to create disturbance?—Yes.

42. *By the Chairman.* Do you know whether they were mutinously disposed?—Yes, they were mutinously inclined. If we had had a bad set generally we should have been badly off with these men on board.

43. It would have increased the danger of a mutiny very materially?—Yes.

I wish it to be understood that I was under no apprehension respecting these men during the time they were on board the "Mary Bannatyne." They were, no doubt, a dangerous set of people; but I at all times had the power and possessed the means of putting any of them under restraint, had I deemed it necessary. I should have put Eckersley in irons, but at the time the assault was committed we were passing through Bass' Straits, and I did not wish to be annoyed with him in confinement on the poop in that intricate navigation. Two men were appointed to watch him, and he was not permitted to come on deck after dark until our arrival in Sydney.

Mr. J. Duncan.

Mr. John Duncan called in, and examined:

1. You are chief officer of the ship Mary Bannatyne recently arrived with emigrants?—Yes.

2. You took emigrants on board at Deptford?—Yes.

3. Do you remember any emigrants being put on board by the police?—Yes.

4. Will you state what then happened, as near as you can remember?—The boat came alongside with the police and emigrants on board.

5. Were they the Thames police?—I could not say that. They wore the uniform of policemen.

6. You took ninety-six emigrants on board at Deptford; were these people put on board at the same time?—Those that were put on board by the police came first.

7. At what time of the day were they brought?—About twelve o'clock.

8. How many did the police bring?—I could not say the number, but I know the families; there were Latimer, Armitage, two Winterbottoms, Eckersley, Mackland, Broadbent, and Platt. They were all married except Mackland, who was a single man.

9. Did they all come on board in one boat?—Yes; in a large lighter.

10. Did they appear to have been under restraint on board this lighter?—No; the policemen asked me to let them come on board, and as it was a cold wet day I allowed them, although the doctor and captain were not on board.

11. Did the policeman produce no order?—I received no order. He said they were emigrants for the ship Mary Bannatyne.

12. *By Mr. Cowper.* In all other cases did you require an order for the admission of emigrants on board?—No.

13. Why do you say that you let them come on board as it was a cold wet day; had you any doubt about their being proper persons?—No.

14. Did the police come on board?—Two of the police came on board, and waited there till they had got all the emigrants on board, and then went away in the boat; their luggage and all was brought with them.

15. Did the police leave the vessel immediately after they were all put on board?—I do not know whether they went immediately, it is so long ago.

16. Did they come again?—They came the next day while we were still lying at Deptford, and inquired if they were all on board, and went down below and saw them.

17. How

17. How many policemen came the second day?—One or two; one seemed to be an inspector.

18. You brought all these people here?—Yes.

19. *By Mr. Cowper.* Did it not appear to you at the time that there was something very extraordinary in these emigrants being brought on board in charge of the police?—Yes; it certainly was strange to see them coming as emigrants in charge of the police.

20. Was there not a remark made by some one at the time that they must have made a mistake?—There was such a remark made. I do not recollect by whom; but I dare say I made it myself.

21. *By Mr. Foster.* Were any special orders given by the police about these people?—They said they were not to be allowed to go on shore. I think the doctor came on board before the police boat went away that day.

22. *By Mr. Macarthur.* When the police came on board the second time did they remain any length of time?—They remained until we were towed out by a steamer.

23. *By the Chairman.* What was the conduct of these people on the voyage?—Some of them were very obstreperous; their conduct generally was anything but what was right. They were always quarrelling amongst themselves, and the doctor was often obliged to go down amongst them.

24. Did they use bad language?—Very bad language to one another.

25. Do you know what any of these people were?—No further than from hearsay.

26. Did you know where they came from?—From Lancaster, they said.

27. Did any of them come from Ashton-under-Lyne?—Yes.

28. Do you know that certainly?—No.

29. How did Eckersley behave?—He several times got into trouble.

30. How did the Winterbottoms behave?—One behaved himself pretty well, the other had a bid of disturbance with the doctor.

31. How did Latimer conduct himself?—Very indifferently; he threw himself overboard once.

32. *By Mr. Cowper.* What was the cause of that?—Fighting with his family below. His sons had struck him; he jumped overboard with two holystones tied round his neck. We were on the line at the time. At the cry of "a man overboard," the captain ran on deck and lowered the boat, but by this time Latimer had hold of a rope's end. There was not much way on the ship at the time.

33. Do you know anything of Armitage?—Armitage was a policeman or lock-up keeper at home. I believe so from what he has told me himself.

34. How came he to be in the charge of the police when he came on board?—I really could not say; he said he was obliged to leave England because he was in danger of his life for being a witness, or something of that kind.

35. How did Mackland behave?—He behaved himself very well.

36. Broadbent?—He behaved pretty well.

37. Was it not generally believed that these people, or some of them, were concerned in the murder of a policeman at Ashton-under-Lyne?—It was rumoured so.

38. Upon whom did the rumour rest as the actual perpetrator?—Latimer.

39. Father or son?—On both.

40. *By Mr. Forster.* Did you ever hear that report from any of their own party?—Not from the Latimers; they were such ill-looking fellows, I did not like to speak to them; they could not look you straight in the face and speak.

41. Was there any report about what Eckersley came out for?—I suppose he came just in the same way as the rest.

42. Do you think he came from the same place as the Latimers?—I do not know.

43. Do you know anything about the Winterbottoms?—They were all engaged in the affair at Ashton-under-Lyne; it was said they had given lodgings to the Latimers.

44. Eckersley was brought up for an assault on his arrival here?—Yes; it was a very aggravated assault; he seized a man by his private parts, and tried to throw him down the hatchway.

45. What was done to him in Sydney?—I believe he was fined a shilling; the case came on at the Water Police Office.

46. Did the man give him any provocation?—None whatever.

47. What were Mackland and Broadbent supposed to be sent out for?—I have not heard; I heard Mackland say himself that he was drunk, and that the police picked him up in the street at the time of the riot.

48. He also came from Ashton-under-Lyne?—Yes.

49. They were all sent out for being engaged in the affair of the death of the policeman;

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Mr. J. Duncan.

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the Latimers were supposed to be much concerned in it, the Winterbottoms took them into their house, Armitage had been a witness, and Eckersley was also implicated in some way?—That was the general report.

50. *By Mr. Macarthur.* Did you hear that one of this party went out with a stone bottle filled with gunpowder and slugs, with a fusee on it?—I have never heard of it; Winterbottom would tell the whole if he was asked.

51. Is he a decent sort of fellow?—Yes.

52. *By the Chairman.* Had you to put any of these men under restraint at any time?—I threatened to put them in irons repeatedly; never a day passed over that they did not quarrel.

53. Was Armitage quarrelsome?—I cannot say; he was on a different side of the ship from the rest.

54. What was Mackland's behaviour?—Very quiet.

55. Broadbent's?—Quiet; all the others were more or less disorderly.

56. You never did actually put any of them in irons?—No.

57. Had you much trouble with the other emigrants?—Very little.

58. Did these people seem mutinously disposed; if the other emigrants had been a disorderly set do you think any danger would have occurred to the ship?—I should hope nothing of that kind, though they made a great disturbance.

59. Did the other emigrants associate with them?—No; they kept from them as much as they could.

60. *By Mr. Foster.* Did not the other emigrants express themselves of these transactions as a great grievance?—I believe they did in writing to the doctor.

61. *By the Chairman.* What became of them on their arrival here?—The greater part of them are about the city. Eckersley has gone to the Parramatta depôt; James Winterbottom is still on board the ship; he seems himself to be a very quiet sort of man, and I believe it was his wife's fault that he was sent out, he having kept a lodging-house, and she let in the Latimers without his knowledge.

62. *By Mr. Macarthur.* Do you know whether the Government had promised these men good berths when they came here?—They all expected it when they came out.

63. Did you ever hear any of the other emigrants say the Government had promised them employment?—None but this party.

J. M. Swift, Esq., M.D.

Jacob Meade Swift Esq., M.D., called in, and examined:

1. You were surgeon superintendent of the ship Mary Bannatyne, recently arrived with emigrants?—Yes.

2. We understand that some people were put on board your ship at Deptford by the police just before she sailed; were you present then?—They came up the larboard as I came up the starboard side of the ship. I did not see the police to my knowledge. The people were coming up from the boat, and I asked them a few questions,—whether they had been examined by the physician, as I had not seen them at the depôt. I saw all the other emigrants there, but this party I did not see. They said they had been examined.

3. Did they say by whom?—No; if they did I do not recollect. I asked if they had been vaccinated.

4. Do you remember the police coming on board a second time?—Yes; I recollect a policeman being on board.

5. Do you know what he came for?—Not particularly.

6. Did you know what these people were?—No.

7. Had you or anybody on board any suspicion as to their real character?—No; not till after they left Plymouth.

8. Have I got all the names; Eckersley, Armitage, Latimer, Winterbottom, Broadbent, and Mackland?—There was another, Platt; there were three Latimers and two Winterbottoms, all married.

9. What family had Eckersley?—A wife and two children; the only single man was Mackland. I beg to hand in a list of those people. (*Vide Appendix A.*)

10. Did you ascertain in the course of the voyage who these people were?—They were so constantly fighting that they let it out.

11. Did they all quarrel?—All, except Mackland and Broadbent; Armitage behaved very well after a reprimand, and so did James Winterbottom.

12. They first attracted observation by their quarrelsome dispositions?—Yes.

13. Were the other emigrants quiet respectable people?—They were perfectly so.

14. What did transpire about these people put on board by the police?—Some of them were recommended by one of the policemen for employment as constables on board the ship;

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ship; among the rest Eckersley. I appointed old Latimer a constable, and Armitage hospital assistant. While we were at Plymouth, Armitage left the ship, contrary to my express orders; therefore, when he returned, I appointed another person in his place. Old Latimer asked permission to go on shore the following day, which I permitted him to do; I believe it was for the purpose of purchasing a fiddle for the other emigrants, with a subscription that had been got up. He was drunk that night at Plymouth, and I had to go on shore next morning to release some watches belonging to some of the emigrants, which he had left at some druggists as security. After that (I do not recollect the dates, but they are all down in my journal,) I was called between decks about half-past four in the morning in consequence of the Latimers fighting; old Latimer had beaten his wife, and his sons had beaten him. I discharged him as constable then and there. Shortly after he threw himself overboard, with two holystones tied to him; but he took care to have a very good hold of a rope. It was said at the time that he had attempted the same thing before at Manchester. The principal fault I had to find with these men was their cursing, swearing, blasphemous language, and fighting. I cannot say there was very much fighting, because I took means to stop that.

15. What means?—I stopped their rations.

16. Had that the effect of quieting them?—It had.

17. *By Mr. Macarthur.* Was there any written authority for receiving these people on board?—Their names were in the nominal list.

18. Who signed it?—Mr. Smith, I believe, signed the one that he gave the captain; Mr. Carew signed one; and I signed a complete list, acknowledging to have received these people, which was countersigned by Mr. Carew.

19. That was after they were put on board?—Yes.

20. Had you any intimation that these people were to go by the ship till you saw them as emigrants on board?—Mr. Smith gave us to understand that there was a party to be sent off from London in a steamer; and we believed or hoped that we should have got our full complement without calling at Plymouth.

21. Did you ascertain what their previous history had been?—Merely from their taunts to each other when they quarrelled; they used to say they had been in gaol, and had been in the chartist riots.

22. What was your impression?—That they were decidedly chartists, and had turned approvers.

23. Where did they come from?—Ashton-under-Lyne; all of them came from that immediate neighbourhood.

24. Did it come out at all that they were concerned in the murder of the policeman at Ashton-under-Lyne?—I think that has appeared from some of the evidence they have given before the Immigration Board. They were constantly annoying me by saying I had papers recommending them for good situations to the Government here; I said I had no such papers, and I would take care to let their conduct on board the ship be known.

25. Was it not supposed that Latimer was the principal in the murder of the policeman?—The father and the two sons were considered to have had the principal hand in the murder. The schoolmaster, George Abbott, has been consulting with me this morning about lodging informations against the Latimers, who threatened to take his life. It appears he went into a public house called the Lady of the Lake, and the Latimers, Armitage, and Thomas Winterbottom were there; they accused him of having made some remarks about them on the voyage, which he acknowledged, and they said they would rip his bloody guts out; that was a common expression with them on board during the voyage.

26. Have you discovered, either from what they have said, or what you have heard from others, how they were forwarded from Lancashire to London?—They were sent by the railway train, but not at their own expense; they were in the charge of the police; they were kept at the Victoria Hotel, in London, and from that they were sent on board the ship at Deptford in charge of the police; they received a good supply of clothing at somebody's expense, not at their own.

27. When did they leave the ship after her arrival here?—The Latimers left about two days after our arrival. Two are still on board, Mackland and James Winterbottom; Mackland has behaved remarkably well on board, and James Winterbottom appears anxious to behave himself, and keep away from the others.

28. Have any of them found engagements?—I am not aware.

29. Have they any money?—They expected money when they got here, but I fancy they have got none, as I have heard that Latimer has sold his watch; they said they got 150*l.* from the Government at home, and expected more when they arrived here.

30. What did they get the 150*l.* for?—They said it was the reward for the apprehension of the man who shot the policeman.

31. You understood that these people were witnesses who had given information that made it unsafe for them to live in the neighbourhood of Ashton-under-Lyne?—Yes. James Winterbottom was sent out in consequence of the Latimers having been apprehended at his house;

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house; but he declares he never was a chartist, nor ever belonged tothe so ciety; he was summoned as a witness on the trial. You will see the whole account of the trial in the Times of the 18th or 20th of December 1848.

32. Where was the trial held?—At Lancaster, I suppose, Ashton-under-Lyne being within six miles of Manchester.

33. What has become of the wives and children of these men? —They are, I believe, all living in the same house near the Lady of the Lake public-house; the schoolmaster mentioned so to me this morning.

34. Do you know whether these people came under the class of what is called assisted emigrants?—Yes.

35. *By the Chairman.* Do you know what assistance they received?—No.

36. They had clothes from Government, were kept under the care of the police, and part of their passage was paid out of the funds of this colony?—Yes. One of the Latimers was taken up on Saturday night for carrying a gun double loaded.

37. *By Mr. Foster.* For what purpose?—It was supposed to shoot the schoolmaster. During the voyage the other emigrants expressed their dissatisfaction concerning these people in very strong language in a letter to me, which I beg to hand in. (*Vide Appendix B.*)

38. Did the policeman go out to sea with you at all when he came the second day to see that these people were all on board?—No.

39. When did he leave the vessel?—I cannot say.

40. He was in plain clothes?—No, he was in uniform, as I find by my notes.

41. *By Mr. Macarthur.* With respect to the promises of employment which they said had been made to them, did they say from whom these promises emanated?—If we are to believe old Latimer they were made by Sir George Grey, the Home Secretary, with whom, according to his own account, he is very intimate.

42. Did they say they were to be considered as a favoured class on board the ship?—Yes; they said they were not to be treated as the other emigrants.

43. And when they arrived here they expected to be provided with good situations by the Government?—Yes; they were continually telling me that I must have papers from the Government at home to the Government here recommending them for employment.

44. *By Mr. Foster.* They did receive recommendations to you to be appointed constables? —Yes; from Mr. Smith.

45. *By the Chairman.* This man Eckersley, we are told, was guilty of a brutal assault? —Yes.

46. And he was brought up at the Water Police Office, and fined a shilling?—Yes.

47. Do you know what was the reason of this leniency?—On account of his wife and children, and he said he was sorry for it, and promised to behave himself for the future.

48. Did it appear to you to be a very serious assault?—I considered it so.

49. Suppose he had succeeded in throwing the man down the hatchway, which it appears he attempted to do?—It might have caused his death.

50. From what you could gather from these people do you think there were really any promises held out to them?—I doubt it very much; I think it was old Latimer who held them out to the others in order to keep them in subjection to himself; I am the more convinced of it because they combined together to make me as black as possible, to use their own expression, to the Government here, as I had expressed my determination of bringing their conduct forward.

51. What was Platt's conduct on board the ship?—I did not consider it the very best; he assisted in the hospital at one time, and I found many articles supplied for the sick to have been abstracted, and on the first opportunity I dismissed him from the hospital; after that I found these depredations had ceased.

52. *By Mr. Foster.* You said old Latimer tried to keep the party in order by his promises?—Yes; it was my impression that he held out these promises in order to maintain discipline in his own party. I believe they had turned Queen's evidence. One of the Latimers was strongly suspected of being the actual murderer of the policeman, in fact of having fired the shot which killed him.

53. What reason had you to suppose that he was the actual murderer?—Their own statement. I have heard one of the party (I am not prepared to say who, it might have been Eckersley,) say so. It was generally believed on board that Latimer was the guilty party.

54. Did they make any secret of their crimes?—They did not appear to make any secret of them. They said they had been of essential service to Government, and that was the reason they were sent out. Two of them, Eckersley and Platt, had, I believe, before this affair at Ashton-under-Lyne, been employed as spies.

55. *By*

55. *By Mr. Macarthur.* Did you hear any of them say they were not chartists, but a sort of national guard?—They acknowledged that they were chartists. Broadbent acknowledged that he was a chartist and a lieutenant in the national guard. Thomas Winterbottom was a general, or something of that sort, according to his own statement.

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J. M. Swift, Esq., M.D.

6th August 1849.

Appendix referred to.

A.

Per "Mary Bannatyne."

Names.	Ages.	Names.	Ages.
Winterbottom, Thomas	27	Latimer, Thomas	24
„ Rachel	23	„ Hannah	22
„ Matilda	Infant.	„ John	20
„ James	38	„ Elizabeth	22
„ Sarah	30	Platt, John	27
„ William	9	„ Sarah	28
„ Emilia	8	„ Elizabeth	5
„ James	5	„ Thomas	Infant.
„ John	2	Broadbent, William	26
Armitage, Joseph	33	„ Margaret	23
„ Martha	30	„ George	7
„ Sarah	3	„ Samuel	5
Mackland, William	23	„ Elizabeth	2
Latimer, John	54	Eckersley, William	31
„ Ann	54	„ Amelia	24
„ Elizabeth	18	„ Elizabeth	4
„ Robert	15	„ Hannah	1

B.

To J. M. Swift Esq., Surgeon Superintendent of the Emigrant Ship "Mary Bannatyne," bound for Sydney, New South Wales.

Sir,

As we are drawing to the end of our voyage, we cannot let the opportunity escape of thanking you sincerely for the great care, kindness, and attention we have at all times received at your hands throughout this long and tedious voyage, and for which we feel deeply grateful. At the same time we have to express through you our deep gratitude for the great kindness evinced towards us by the captain, and our high estimation of his character.

Before concluding we cannot but feel grieved that the harmony of the ship has been greatly interrupted by those emigrants who came from Lancashire,—sent out, we believe, by the Government, for services rendered in the chartist trials,—characters of the worst and basest description. And we are not a little pained that those parties should be sent, while many of our friends and neighbours in England, who would have been a credit to the colony and respectable members of society, have been rejected.

Trusting that you will return to England in safety, and again thanking you for your uniform kindness,

We remain,

Your most obedient and ever grateful servants,

(*Here follow* 25 *signatures.*)

Friday, 7th September 1849.

PRESENT:

Robert Lowe Esq. in the Chair.

The Speaker.	Charles Cowper Esq.
The Colonial Secretary.	Lauchlan Mackinnon Esq.

F. L. S. Merewether Esq. called in, and examined.

F.L.S. Merewether, Esq.

7th Sept. 1849.

1. You are immigration agent?—I am.

2. Will you state your opinion of the working of the plan of assisted immigration?—Understanding the question to have reference to the existing regulations for assisted immigration, I am of opinion that the plan is not likely to be beneficial to the colony. Our

experience

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F.L.S.Merewether, Esq.

7th Sept. 1849.

experience of its working has yet been short, but, so far as it goes, it confirms the apprehension which I entertained when I first read the regulations, that a large proportion of the persons who would avail themselves of the assistance afforded by them would not be of a description suited to the wants of the colony.

3. What description of persons have they been generally?—A very considerable proportion of them have been decayed tradesmen, clerks, and mechanics of a superior description.

4. That is, of a superior department of industry?—Yes.

5. Persons who make articles of luxury?—Yes.

6. Is there any supervision at all exercised over these persons at home?—Their certificates are passed by the Colonial Land and Emigration Commissioners, to whom, I believe, they are in most instances recommended by the Colonization Society. If I am rightly informed, almost all the persons who have come out as assisted passengers have emigrated under the auspices of the Colonization Society.

7. The Commissioners do not trouble themselves to inquire further, if they receive a certificate of the payment of the money for their passage?—They require the usual certificate as to the applicant's calling, character, and freedom from bodily or mental infirmity.

8. Do they require the same certificate from these persons as from bounty emigrants?—Precisely; the only distinction is, that under the free regulations passages are granted only to farm labourers, shepherds, female domestic and farm servants, blacksmiths, carpenters, bricklayers, masons, and wheelwrights; but under the system of assisted immigration the Commissioners accept persons of other trades or callings, if such persons profess willingness and appear physically qualified to take country employment in the colony, notwithstanding their former occupations.

9. Are there any limitations as to the trades of assisted immigrants?—The regulations set forth, under the heading of "Qualifications," that "the emigrants must be healthy and "able-bodied, capable of field labour, and of the labouring class, and must be going out to "work for wages in the colony." The description afforded by the terms "labouring class" is indefinite, but, judging from the persons to whom passages have been granted, I assume that it is understood by the Commissioners to comprehend tradesmen of any description,—shopmen, and other such persons,—provided that they are "healthy and able-"bodied, and capable of field labour."

10. Will you mention some of the trades that those persons have exercised who have obtained this assistance; were there any watchmakers, for instance?—There have been some watchmakers. There was a furrier, I remember, who was for a long time looking for employment in business of some sort in Sydney, and who afterwards went up to Goulburn. This man had a large family, and his case attracted my particular attention, because it occasioned a strong complaint to be made to me respecting the unsuitable description of many persons who had recently arrived in the colony, and who had applied to complainant for assistance and relief; and also because it was evident from the man's statements to me that he had been sent to the colony by the assistance of relations on whom he was dependent, in order that he might not remain a burden upon them; he had been in business in England on his own account, and failed.

11. Can you mention any others?—Gunsmiths, printers, paperhangers, coachmakers, upholsterers, and brassfounders. A brassfounder came out a few months since who has established an extensive shop in Sydney, which he now keeps; this man had been in the colony before, and had kept a shop in Sydney.

12. You are of opinion that the system of assisted immigration is not a good one?—I do not think that the present system of assisted immigration is a good one.

13. Do you think it could be modified so as to make it work well?—I am and always have been an advocate of the principle of assisted immigration; but what I object to in the present system is, that for the sake of a comparatively small contribution we shall be likely to receive a large proportion of persons not suited to the demand in the colony.

14. What modification of the system would you recommend?—I should recommend, if the assisted immigration regulations remain as they are, that the proportion of contribution to be given by applicants for passages be much increased.

15. *By the Speaker.* What is the average sum paid by these assisted immigrants?—Under the present regulations the children of assisted immigrants receive free passages unless the family contains more than two children under seven years of age, or than three under fourteen, in either of which cases 7*l.* is required for each child in excess of those numbers. The contribution for adults varies according to their ages; for persons between the ages of fourteen and forty years it is 5*l.*, for persons between the ages of forty and fifty years it is 7*l.*, for persons between the ages of fifty and sixty years it is 9*l.*, and for persons above the age of sixty years it is 14*l.*

16. What is the total number of those who have been sent out by assisted immigration?—I think about 500 adult males have come to the colony under the assisted regulations.

17. Very

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17. Very few persons arrived under this system up to the end of last year?—None came out under the regulations in question. I may mention, that in the numbers stated in my answer to the last question, I do not include the British labourers from France, who arrived in 1848, as the assistance in their case was not given under the general regulations, but was a matter of special arrangement.

18. *By the Chairman.* You think it would be a good plan to increase the amount they pay?—Yes.

19. You think those persons who are sent out under this system are of some use?—I think if 10*l.* were contributed for each statute adult, and the remaining portion were to be paid by the colony, we should be sure to get an adequate return for our share of contribution between the value of the services of the immigrants in the aggregate, and the money which they would bring with them.

20. Is there any other way in which you think this principle might be applied?—I hope that some arrangement will eventually be made with the parishes at home, under which they will contribute towards the payment of the passage money of labourers, shepherds, and female servants, and that the colony will thus obtain assistance without having to submit to receive persons who, though of a superior grade in life, are of inferior usefulness with reference to the requirements of employers here.

21. Would it be a good plan to abolish free immigration altogether, and to place the assisted immigrants under the same regulations as those which are now in force, with reference to free immigration?—From the correspondence which I have seen on this subject, I fear that we should not as yet get labour of the description we require under such a restriction. A considerable expense is now incurred for the immigrants outfit, &c., which may be estimated at about 6*l.* for each statute adult; and it seems to be considered by the authorities in England that this is as much as can under present circumstances be obtained, either from the individuals, their friends, or the parishes, as respects field labourers and persons of that class.

22. You think if we were to discontinue free immigration we could not get a supply of labour of an eligible description?—I fear not.

23. *By the Colonial Secretary.* That is, we should not get a suitable class of persons?—Not a suitable class.

24. You think we should get a sufficient number, but that they would not be adapted to the wants of the colony?—Yes. In illustration of my meaning, I may state to the Committee that a large body of immigrants came in a ship from Dorsetshire lately, with reference to whom Mr. Scott asked, in the House of Commons, why these emigrants should be sent in preference to the many who were candidates for passages under the assisted regulations. Now, I can have no hesitation in expressing my opinion, that it is much better for the colony to have paid the whole passage money of such people as those, than it would have been to have received an equal number of the class who have come out as "assisted emigrants," and to have saved the difference in the expenditure. If a proportion of those Dorsetshire labourers passage money had been paid at home, the arrangement would of course have been a beneficial one, as we should have obtained at a reduced cost the people we wanted.

25. Are these persons a burden to the colony, or any advantage?—Some who came out, I should say, are likely to be of very little use indeed; but I think a large proportion of them may ultimately become useful as colonists, though not well suited to the present demand for labour.

26. You do not think these people are of a class that can be turned to account readily in this colony?—They are generally able-bodied men and of good reputation, but not used to country work; indisposed to take it; and if driven to take it, are unlikely to be satisfied themselves or to satisfy their employers.

27. What do you think becomes of those decayed tradesmen and mechanics of the higher description you have referred to; do they go into the country?—Some of them may be ultimately compelled to go into the country for a time, but they will always be looking out restlessly for an opportunity of returning to the town.

28. Do they generally settle in the town?—Yes; in the first instance they get lodgings in Sydney where they live upon the little means they have, and in some instances fall into occupations in Sydney; failing that, they are driven into the country, but few of them prove to be settled or useful labourers, being always dissatisfied and discontented with a life and occupation to which they have not been accustomed.

29. *By Mr. Cowper.* Do the Land and Emigration Commissioners relax their regulations in favour of these assisted immigrants?—Yes.

30. They consider that if a portion of their passage money is paid they may send an unsuitable class of persons?—Not what they consider to be of an unsuitable class, because their decisions as to the acceptance of candidates for passages depend on their being satisfied that the persons are likely to become useful labourers in the colony; but they hold that they can send with benefit to the colony persons of inferior qualifications, if they obtain what they deem a compensating payment from the parties themselves, so as to cause a diminution of charge to the colony proportioned to the defect in qualification.

31. *By*

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31. *By the Colonial Secretary.* Do you consider that, generally speaking, the assisted immigrants have been of value to the colony, equal to the sum paid for them by the colony?—No; not under the present circumstances, as the existing demand is for agricultural and pastoral labour only; and money spent therefore in introducing other descriptions of labour of which there is an abundance, is, in my opinion, misapplied.

32. *By the Chairman.* Do you think they are not worth 4*l.*?—If the colony had only paid 4*l.* for the adults and 2*l.* for the children, I think that on the aggregate of the immigration it would have got fully its money's worth.

33. Is it not a system subject to abuse?—It appears to me to be one in which it will be most difficult to avoid abuses; I cannot but fear that it will frequently be made use of as a cheap mode of getting rid of burdensome relatives or dependents who have done no good at home, and who are likely to do none here.

34. *By the Speaker.* The returns appended to your report do not extend beyond the year 1848?—No.

35. The chief part of the assisted immigrants have arrived here during the last six months?—Yes; in fact, none came out under the "Assisted Emigration Regulations" in the year 1848.

36. *By the Chairman.* Could you give us a return of the number of assisted immigrants up to the present date?—Yes; I will prepare it. (*Vide Appendix.*)

37. *By the Speaker.* Do you not think that a system, by which free immigration would be altogether abolished, and assisted immigration limited to rural labourers, would work well?—I am doubtful whether at present we should get country labourers in sufficient number under such an arrangement. Through the exertions of the Colonization Society, which is in this particular rendering most important service to the colony, the parish authorities are now becoming awakened to a just sense of the benefits which they would derive from the promotion of the emigration of their redundant labourers, and I hope that shortly they will be induced to contribute a considerable portion of the passage money, but there seems reason to doubt at present whether we should obtain country labourers if they were subjected to any further expense than that of the outfit.

38. Do you not contemplate a cessation of those means by which free immigration is carried on; do you think it possible for the colony to furnish resources for the introduction of immigrants for any length of time?—I do not think the colony will be able to bear the expense of carrying on emigration at the present rate; but my opinion decidedly is, that if we cannot get a suitable description of immigrants without paying for them the full cost of their introduction, it is better for the colony to bear that full cost, and receive a smaller number, than to keep up a large immigration by contributions raised in England on condition of our accepting a class of persons ill fitted for the labour which they are wanted to perform.

39. *By the Chairman.* What is the present state of the demand for agricultural and pastoral labour?—The demand is still very extensive; if immigrants continue to arrive at the same rate as at present I have no fear of their obtaining immediate employment if they are of a right description.

40. *By the Colonial Secretary.* What has been the effect on wages?—Wages have been considerably reduced; they now range from 14*l.* to 18*l.* per annum for farm labourers and shepherds.

41. What was the rate prevailing on the first introduction of immigrants?—From 18*l.* to 28*l.*

42. If immigration continues at the present rate is there not danger of reducing wages below a fair remuneration to the labourer?—I do not think that farm labourers and shepherds are now being introduced at such a rate as to cause an undesirable reduction, more especially considering the improved prospects of the settlers, owing to the rise in the price of wool. But few of the newly arrived immigrants, as far as I can learn, have as yet reached the remote districts.

43. *By Mr. Cowper.* Wages in the remote districts are still very high?—They are.

44. *By the Chairman.* You think we might go on importing suitable labourers at the present rate without any risk of a glut in the labour market?—Yes.

45. Do you think if immigration were to cease, or the number of immigrants introduced were to become smaller, it would be attended with an immediate rise in wages?—Certainly.

46. Suppose it were diminished one half?—If the fact became known generally amongst the labourers in the country, wages would rise immediately.

47. As connected with this subject of the demand for labour, is there not considerable re-emigration?—There is a considerable, and I am afraid an increasing, emigration from hence to California. My own official information upon the subject does not extend beyond some thirty persons who have come to my office for certificates that they came free to the colony, in order to get clearances; most of these have families in this country whom they intend to leave here until they have made their expected fortunes, when they propose either

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to return to enjoy them with their families here, or send for their families there, accordingly as their preference may be for the one country or the other.

48. You only know of thirty bounty immigrants who have gone to California?—As yet.

49. Are these recent arrivals?—Only one, who arrived in the Harbinger; the others have been some time in the colony.

50. How long?—Six or seven years.

51. Would it necessarily come under your knowledge if any of those newly-arrived immigrants left the colony?—Not necessarily, because only those come to my office for a certificate who are not able to establish in some other way that they came free to the colony.

52. Are you of opinion, from your knowledge, that any large portion of the newly-arrived immigrants have emigrated or are going to emigrate?—I am not.

53. Who do you think are the parties?—Those who have fallen under my own observation are persons who have been some time in the colony.

54. Of what class are they generally?—Tradesmen and servants.

55. Are they not generally broken down tradesmen, and not a very valuable class of people?—I think those who went in the first instance were by no means a valuable class, but some very useful people are going now, judging from some few I happen to know, and from the accounts which they have given of the persons intending to go in the same vessels.

56. What sort of people?—Servants and mechanics.

57. Have you any idea of the number supposed to be going by the different ships now about to leave Sydney?—I am told there are about fifteen hundred on the point of going.

58. Do you remember in former years there was an emigration to Valparaiso concurrently with the immigration to this colony?—Yes.

59. Do you know the number of persons that went to Valparaiso in that year?—It was very small.

60. Not to be compared to the emigration now taking place to California?—No; I remember the number was very small, though I do not recollect precisely what it was; a return was asked for by a member of the Legislative Council, which was prepared, but in consequence I believe of the number proving to be so small no use was made of it.

61. Is there any legislative enactment which you would recommend for the purpose of preventing immigrants introduced at the expense of the colony from leaving it again?—A law might perhaps be passed to compel any person leaving the colony within a certain number of years to pay back a portion of his passage money, and any one emigrating within one or two years to pay the whole.

62. Could such a law be enforced?—I think it could readily; because these people could only leave for foreign countries from the principal ports.

63. *By the Colonial Secretary.* Do you think such a law would be consistent with the principle upon which free passages were granted to these people?—Yes; because each party signs a declaration, in the printed forms, that he accepts a free passage and goes to the colony as one willing to work *there* for wages.

64. There is no engagement for any particular time?—No.

65. It is implied, I presume, that he is to become a resident in the colony?—Yes; I will read to the Committee the declaration that is made.

"I do hereby declare, that all of the above statements are true; that I have carefully "read or have heard read the Commissioners regulations contained in the paper attached "to this form, and that in applying for a passage to the colony I am truly acting in "accordance with the spirit of those regulations, which I understand to be this:—That "the privilege of a passage, if granted, will be allowed me, on the faith that I really "belong to the working class, am of good character, and *that I go to the colony intending "to work there for wages.* And I further declare, that I have neither paid, nor agreed to "pay, for the purpose of obtaining a passage, any fee or gratuity whatever to or the use "of the party through whom this application is made, or any one else. I also engage to "conform to the directions of the Commissioners and their officers, and to such regulations as may be established for the good government and welfare of all during "the voyage, and I further pledge myself not to leave the ship until she reaches her "destination."

(*Signed by the Applicant.*)

66. Are the original documents signed by the parties sent out?—No.

67. *By the Speaker.* There is no doubt of the fact of their having signed them?—They cannot be passed by the Commissioners without signing them.

68. *By the Colonial Secretary.* Does that apply also to assisted immigrants?—Yes; the same terms are used in the form of application which is sent in by the persons who obtain passages under the assisted regulations.

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69. *By the Speaker.* Have you heard that people purposing to emigrate from England to California come by way of this colony, taking advantage of the bounty system?—No, I have not heard it, nor do I think it likely to have been the case.

70. *By the Chairman.* You think such a law as you have suggested would be a beneficial one?—I think it would be a fair law.

71. Do you see any objection to making any bounty immigrant who leaves the colony at any time pay the expense of his passage to it?—I think it might be considered hard that a man who had served here seven, eight, or ten years should be bound to repay his passage money, and I should not make the law applicable to persons leaving this country for the purpose of going to the neighbouring colonies.

72. Would such a law have a tendency to prevent people from coming here?—No, not at all; at least so far as country labourers are concerned. No country labourer when he comes here has the slightest idea of leaving the colony.

73. *By the Colonial Secretary.* Would not the knowledge of the impossibility of going away without repaying their passage money operate to prevent people accepting passages to this colony?—Not farm labourers and shepherds; when they leave England they do not contemplate returning again.

74. As a matter of policy you do not see any objection to such a law?—No.

75. Do you think there should be a rateable return made?—I should say that if a man left within one year, or perhaps two years, of the time of his arrival, he should be required to pay the whole passage money.

76. *By the Chairman.* If a man has been more than that period in the colony, and has been tolerably prudent and sober, is he not sure to get more than that at the rate of wages? A single man is.

77. *By Mr. Cowper.* Since your last examination before the Committee on Crown Lands have your views in any way altered with respect to any system that might be introduced for requiring from the immigrants themselves the repayment of their passage money by annual payments out of their wages?—I do not think that this repayment could ever be obtained; and such a measure as that might prejudice intending emigrants against this country, as they would not like to have such an incumbrance on their earnings in the colony, if they continued in it. The other case I think is quite a different one, where they wish to leave the country entirely.

78. *By the Colonial Secretary.* What amount of annual immigration do you consider necessary to maintain wages at their present rates?—It is difficult to speak with precision; perhaps more than the present rate might be taken, but I think the present rate is sufficient. I am speaking now of the number of agricultural labourers and shepherds that come out. I would recommend that no tradesmen of any description whatever should receive free passages out of the public funds, but that all should come under the assisted regulations.

79. Shepherds and agricultural labourers should have free passages as at present?—Unless there appears to be a reasonable prospect of obtaining assistance from the parishes.

80. How many ships a month do you think it desirable should continue to be sent out?—We could receive at least two ships a month in Sydney if we had the means of paying for them.

81. Are you able to speak of the wants of the district of Port Phillip?—At Port Phillip they appear to have had no difficulty in getting rid of an equal number, but I am scarcely prepared to state decidedly that it could be continued at the same rate.

82. Do you include in your computation for the Middle District the probable wants of Moreton Bay, and the country of which that is the shipping port?—I include Moreton Bay, and propose that about three ships out of the yearly number should go there direct.

83. *By the Chairman.* Do you think it desirable that ships should go direct to Twofold Bay?—No.

84. Has that been the case?—One ship only has gone as yet.

85. Did the immigrants obtain engagements at Twofold Bay?—A large proportion of them did in the township and neighbourhood; some came on to Sydney, and others went to Port Phillip.

86. Is the place itself able to absorb any considerable number of immigrants?—No; not the town.

87. *By the Colonial Secretary.* What is the demand for female domestic servants in Sydney?—It is still very considerable.

88. What is the present rate of wages, and what effect has the immigration had upon them?—The general rate of wages for general house servants and housemaids is 14*l.* a year.

89. What reduction has been made in wages in consequence of the renewal of immigration?—The same description of servants who now get 14*l.* a year would have obtained from 18*l.* to 20*l.* twelve months ago.

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90. The inferior classes of domestic servants receive lower wages than you mention?—Yes; the highest rate that is given to the orphan girls is 10*l.* a year. Good and efficient house servants receive the rate above stated.

91. Do you consider that there will be sufficient demand for domestic servants to maintain wages at their present rates if the usual proportion should continue to be sent out?—I think the proportion in which they are now sent out is not excessive, including the orphan girls.

92. *By the Chairman.* In your report you speak favourably of the orphan girls; is that favourable opinion confirmed by what you have seen in the present year?—Those who arrived in the last ship were of a very good description, and turned out well. Much, of course, depends on the management during the voyage out. Upon the whole they have turned out well. A large proportion of them have been ignorant of the duties of domestic servants, but their characters have, I think, been generally good, and they have been found willing and attentive, and when placed in the country especially have done exceedingly well.

93. Have they generally done so?—A large majority of them have done very well. The female orphans have come almost entirely from Ireland, and owing to the distressed state of the country many of them are of a much superior class to the inmates of workhouses in ordinary times.

94. Do you think they ought to come here as bounty immigrants?—I think a proportion of their passage money ought to be contributed out of parochial funds. That question was brought by Mr. Cunningham under the notice of the Commissioners, but they did not admit the expediency or fairness of requiring a contribution in the case of the Irish orphans, because of their mature age and superior usefulness, as compared with the girls who could be obtained from the English workhouses, which were held to render them equal in respect of usefulness to the ordinary female emigrants who receive free passages.

95. Do you not think that their great inexperience and want of knowledge in domestic matters is a reason why we should not pay the full expense of bringing them out here?—Certainly; as their supposed acquaintance with the duties of domestic service was one of the main grounds on which the Commissioners did not propose a contribution from the Irish workhouse funds.

96. They are not acquainted with those duties, I understand?—Scarcely any of them.

97. They require to be taught?—Yes.

98. Do you think any considerable economy can be effected in the transport of immigrants; could you suggest anything to lessen the cost of bringing them out?—No; I do not see how it could be lessened. The contracts are taken by competition, and the cost has been reduced greatly under the present system.

99. Has it been reduced since the commencement of the immigration now going on?—Yes; but it has latterly had a tendency to increase, in consequence, I believe, of the increased demand for shipping of the class required for this service. The dietary scale is very liberal, perhaps more so than is necessary, but it has answered very well as respects the health of the emigrants, and I should not, therefore, like to recommend a reduction of it.

100. Do you think the ships generally have been placed in proper hands; have the captains and surgeons-superintendent been generally well qualified to perform the duties required of them?—Some of the medical men who have been placed in charge of immigrant ships have not been well qualified for the office.

101. As a general rule, do you think the captains have been qualified for their office?—I think there has been no reason to complain in any way as respects a large majority of captains.

102. Amongst the medical men a larger proportion have been unqualified?—Yes.

103. You have had more reason to complain of the medical men than of the captains?—Yes.

104. What has there generally been to complain of on the part of the captains?—In some instances they have attempted to defraud the immigrants in the provisions, and in some cases they have not used proper exertions to preserve morality in the ship.

105. Have they themselves in some instances been the principal agents in promoting immorality?—In one or two cases, but I do not think they have generally. The captain is under a heavy responsibility in this particular, it being one of the conditions of the charter-party that he shall not permit any intercourse whatever between the officers and crew of the ship and the single females.

106. *By the Speaker.* Is he able to enforce that regulation with success?—If proper measures are taken at the commencement of the voyage there is little difficulty in enforcing it to a sufficient extent.

107. *By the Chairman.* What has been the conduct of the surgeons?—Several of the surgeons have not been well qualified for the office.

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108. In what respect?—They have not been men of sufficient firmness and decision of character to carry out their instructions.

109. *By the Speaker.* Have they been generally too young?—Some of them have been too young and some too old; generally speaking, however, they have been men of about thirty years of age.

110. *By the Chairman.* They have been wanting in the requisite firmness; in what other respect have they been deficient?—Some of them have been guilty of misconduct themselves in regard to the females, and others have been proved to have been in the habit of drinking to excess on board the ship.

111. *By the Speaker.* Do you think it would be a good plan to have assistant surgeons in the navy employed on this service; would it not secure a more efficient class of men than at present?—That question was brought under the consideration of the authorities at home, who came to the conclusion that a sufficient number of competent medical men could not be supplied from the naval service.

112. *By the Chairman.* Were not the surgeons who used to come out with convicts better suited to the duty than those who now come out with immigrants?—Certainly better suited than a large proportion of the surgeons who now come out; but then the number employed was very small compared with that which would be required for this service. I cannot, however, see any reason why we should not get competent officers from the medical profession at large, if the rate of remuneration were sufficient to induce properly qualified men to enter into and remain in the service.

113. *By the Speaker.* What is the remuneration?—It is now ten shillings a head for the first and second voyages, twelve shillings for the third and fourth, fourteen shillings for the fifth and sixth, and for all further voyages sixteen shillings. There is no allowance for a passage home, for which surgeons have frequently to pay from 40*l.* to 60*l.*; the result in many cases is that the surgeon does not clear more than 20*l.* or 30*l.* for services which, besides their arduous nature, take up his time for nearly twelve months.

114. *By the Chairman.* Do you know what is paid per head to the persons who collect emigrants in the mother country?—1*l.* 10*s.* for a married couple, 15*s.* for an unmarried female, and 10*s.* for each unmarried male above fourteen years of age; but out of these sums the agents have to pay their own expenses.

115. Can you make any practical suggestion with reference to captains or medical men, to secure a superior class?—I do not think any further security can be taken as respects captains than is now taken; any violation on their part of the conditions of the charter party renders the owners liable to forfeiture of the freight, and they receive a gratuity from Government which is withheld if their conduct has not been satisfactory.

116. Has that gratuity been withheld in several instances?—In several instances.

117. How is the misconduct of a surgeon punishable?—In the same way; he forfeits his gratuity, or a portion of it, if he has not discharged his duty to the satisfaction of the Government.

118. Has that been done in some instances?—It has.

119. What gratuity do the captains get?—Two shillings a head.

120. Then you have a much greater control over the captain than the surgeon?—There is this additional hold over the captain, that he is the servant of the owners, and bound to carry out the conditions of the charter party.

121. *By the Speaker.* Have you ever understood that there has been an arrangement between the owners of a ship and the surgeon by which the surgeon was compelled to relinquish a portion of his fees to the owners?—I do not think that has been done recently; I know it has been done, for two cases were discovered in 1841 and 1842.

122. Not more recently than that?—Not more recently.

123. *By the Chairman.* Do you know any instance in which the system of assisted immigration has been abused? I would refer you to the alleged case of some chartists?—Ten men did come out in a recent ship, who certainly appear to have been sent here for services of a questionable character which were rendered to the Government at home rather than with a view to the interests of the colony.

124. You believe they were sent here for having given information leading to the detection of some political offenders?—Yes. The party consisted of ten, nine married men and one single man; eight of the men, as far as I could collect from the statements of those who came to my office, were chartists; one man was not a chartist, and does not appear to have been further implicated than that one of the others was arrested in his house, and his master in consequence discharged him; the other was a turnkey in a lock-up.

125. Do you remember the man's name?—Winterbottom.

126. He was the most respectable character?—Yes.

127. The others behaved themselves very ill on the voyage?—Yes; it was reported by the captain and surgeon-superintendent that the immigrants considered it a hardship to be associated with these men.

128. What has become of these men?—One, old Latimer, set up as a chiropodist, and advertised himself as late chiropodist to the Duchess of Kent. I believe, however, that he is now looking for other employment.

129. Do you know what employment he has taken?—No.

130. What has become of his sons; what have they done?—They were lodging at the Glebe, and were turned out of their lodgings there.

131. Why?—In consequence of the disturbances they made; old Latimer came home drunk one night, as it was reported to me, and quarrelled with his son and his family, and caused a great disturbance, after which he got a box containing all the family's clothes, and having taken the clothes out and put them on the fire, he set the chimney on fire, and nearly the house also; and the landlord turned them out the next day.

132. What has become of the rest, there was a man named Broadbent; have you heard anything of him since?—Nothing; the conduct of the party has attracted the notice of the police. Young Latimer, I think, was brought up by the police once or twice.

133. *By the Speaker.* What has the introduction of these people cost the colony?—About 350*l.*

134. *By the Chairman.* Had these people the usual certificates of good character given to assisted immigrants?—I presume that they had, but I could not obtain any information on the subject from those whom I questioned.

135. Who were they?—Macklin, a single man, James Winterbottom, and old Latimer. I questioned them very closely as to how they obtained their passages, and they appear to have had no communication whatever with the Colonial Land and Immigration Commissioners; but the matter was arranged by the police authorities at Ashton-under-Lyne. They were put into a railway carriage there by the police, and were received at the railway station in London by some constables of the Thames Police, who took them under their charge, and I think it was upon that occasion they had a disturbance, in which a policeman had his head cut open with a bottle. They were in London nine days at an inn, under charge of the Thames police, by whom they were put on board the ship.

136. Do you not think we have an equitable claim to be reimbursed the cost of their passage, they having been sent here in violation of all the regulations?—I think we have. From the circumstances of the case, as far as I have been able to learn from the public papers and the statements these men have made, it appears that they were not persons who ought to have been recommended to the Commissioners as persons qualified by character or probable usefulness for passages under the assisted emigration regulations; and that in fact the funds of this colony, instead of the county or other home funds, were used by the police authorities at Ashton in ridding themselves of these people.

137. *By the Speaker.* Has a report been made to the home Government?—A report will go home.

138. *By the Chairman.* The Executive Government have directed an inquiry in the matter?—Yes.

139. *By the Colonial Secretary.* Have you any suggestion to make as to the means of raising funds for immigration?—I can suggest no other mode than that of raising a further loan on the security of the land revenue.

140. *By Mr. Cowper.* What is the actual debt incurred for purposes of immigration up to this date?—I believe seventy-five thousand pounds have been borrowed.

141. Does that pay all demands up to the present date?—I should think it will.

142. *By the Chairman.* Do you think it desirable that we should go much further into debt; with reference to the funds at our disposal, to what extent do you think we may prudently borrow?—I think the land fund of this portion of the colony would support a debt of at least two hundred thousand pounds, and that sum might be raised if required. In order however that immigration may not be suspended by the exhaustion of our means, it seems necessary now to consider and determine at what rate we can afford to carry it on, so that the arrangements may be so made as to keep up a continuous stream.

143. Would it not be desirable rather to slacken immigration while this California mania is going on; is not that a consideration?—I can have no doubt that the introduction of mechanics and tradesmen who were not in demand has stimulated the emigration to California by the undue competition which it has created, and this is certainly a strong additional reason for not applying the public funds at present to the immigration of any further number of persons of this class; I do not however think that the continued immigration of bonâ fide farm labourers and shepherds would have any tendency to increase the outgoing to California.

144. *By Mr. Cowper.* You said you thought the land fund of the Middle District may safely bear a debt of two hundred thousand pounds, what amount do you think could be borne by the Port Phillip Land Fund, an equal or a larger sum?—From the accounts which the residents in that district give of their lands, I infer that they would support at least an equal debt.

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145. *By the Chairman.* Can you suggest any means by which this fund might be made to last longer or to reproduce itself?—I can suggest none but contributions from the parishes at home, which I have always hoped we shall ultimately obtain.

146. Do you not think that we should abolish free immigration entirely, and have none but assisted immigration, because, as long as we continue to defray the whole cost, the parishes will not consent to do anything?—That plan might be tried by requiring a very small contribution in the first instance.

147. Is there not danger in reducing the wages of labour too low in a colony like this, because some of the old prison labourers may recur to their old habits?—I think on many grounds it would be undesirable that wages should fall below a certain rate, but I do not apprehend that the present rate of immigration would reduce wages too low.

148. *By Mr. Cowper.* There is still a great demand for labour at remunerative wages?—Yes; from the reports I receive, and from private accounts, the demand is still great, and especially in the distant districts.

149. *By the Chairman.* If we did recommend an assisted immigration it is suggested that the contribution should be small; what sum would you say we should require in the first instance?—I would begin with a very small sum; I would say 2*l.* in addition to what they have to pay for outfit.

150. Can you say the number of people who have been introduced into the colony by the immigration now going on?—The total number of souls is about eighteen thousand.

151. *By the Colonial Secretary.* Including Port Phillip?—Yes.

152. Assisted as well as free?—Yes.

153. There are a number of persons who came out entirely unassisted?—Not many; one or two ships have gone to Port Phillip upon the new principle of very cheap passages, and have brought out a large number of passengers who I fear have been much disappointed on their arrival. They consisted of clerks, surveyors, and others of a similar class, having no capital, but depending entirely on acquirements of a description not in demand.

154. It is not desirable either for the parties themselves or for the colony that that description of persons should come out here?—No.

155. Do you think this immigration has brought out much capital?—I think it has brought out a good deal of money in small sums; but there have been few capitalists.

156. Could you state any proximate amount which you think is an average of what has been brought out by each ship?—I should say an average of 2*l.* or 3*l.* for each man.

157. It would amount to some hundreds by each ship?—Yes.

158. *By the Chairman.* You do not think the immigrants bring with them anything like the sum it costs the colony to bring them here?—No.

159. What is the method of paying for these immigrants?—The payments are made through the commissariat.

160. Supposing there were no commissariat in the colony, and we had to pay in coin, could we carry on such a system?—The drain of coin to which we should then be subjected could not fail, I conceive, to derange the currency very seriously.

161. *By the Colonial Secretary.* Will you explain to the Committee the general nature of the arrangement, and how it is that by paying this money over to the commissariat the ill effect that you suggest would accrue to the currency does not now take place?—The coin is paid out of the colonial treasury into the commissariat, and instead of remitting the coin the commissariat draws bills upon England.

162. That is for the commissariat expenditure?—Yes.

163. That is not only for the commissariat expenditure of this colony, but in the neighbouring colonies of Van Diemen's Land and New Zealand. In point of fact are not a great number of articles supplied from this colony that are paid for by the commissariat in the neighbouring colonies?—I believe they are.

164. Are you aware whether any of the Land and Emigration Commissioners debentures have been remitted to England?—Yes.

165. Then such as have been remitted would be equivalent to a loan raised in England for the purpose of immigration?—Yes.

166. Do you think it likely they would be taken on any large scale for that purpose, seeing that both bank and treasury bills rise to a premium of three per cent. during portions of the year?—I should think so, considering it to be beyond doubt that the debentures would be a marketable security in England.

167. Especially as these debentures bear interest during the passage?—Yes.

168. *By the Chairman.* There has been some foreign immigration to this colony?—Yes.

169. Under what circumstances?—The immigrants were introduced under the regulations established by this Government about two years ago, for the admission of foreign labourers

labourers required for the production of wine and other articles which are not produced in the United Kingdom.

170. What country have they chiefly come from?—Germany.

171. None from the south of France, or Spain?—None.

172. What are they, vine-dressers?—Vine-dressers and wine-coopers.

173. Have they obtained employment?—They came under engagement to settlers who had obtained permission to introduce them under the regulations to which I have referred.

174. *By the Colonial Secretary.* Were they a useful and respectable class of persons?—The first party were an exceedingly good class of persons; but I have reason to doubt whether the second party were equally well selected.

175. *By the Chairman.* What did you see to object to in the second instance?—I have reason to doubt their qualifications as vine-dressers.

176. With whom would the blame of that rest?—The agent employed to select them.

177. Have they recently arrived?—Yes.

178. Do you think anything could be done to stimulate German immigration to this colony; could anything be done there?—I should not be disposed to recommend that any assistance should be given to the introduction of foreigners, while we can get Englishmen of the description required.

179. *By the Colonial Secretary.* It was open to the party who imported these German immigrants to have brought them from the south of France, or any part of the continent?—Yes. I believe they were taken from Germany merely because a greater facility of agency presented itself. There is one instance, I think, in which a settler has applied for Frenchmen.

180. *By the Chairman.* Would it not be desirable if vine-dressers from the south of France and Spain could be introduced?—I think it stands to reason that vine-dressers and wine-makers from the south of France and Spain would be much more suitable for this colony than those whose experience has been formed in the colder climate of Germany.

APPENDIX REFERRED TO.

LIST of IMMIGRANTS who came out under the Assisted Emigration Regulations.

TRADES OR CALLINGS.	Number landed at Sydney, to 2d Sept.	Number landed at Port Phillip, to 23d July.	Total.
MALES:			
Agricultural Labourers	58	69	127
Gardeners	11	15	26
Farm Bailiffs	6	3	9
Shepherds	3	2	5
Herdsmen	2	1	3
Domestic Servants	17	5	22
Carpenters	13	39	52
Masons	2	6	8
Quarrymen	0	1	1
Bricklayers	3	8	11
Brickmakers	0	2	2
Sawyers	0	1	1
Plasterers	2	4	6
Butchers	3	7	10
Bakers	12	5	17
Grocers	1	1	2
Brewers	2	0	2
Confectioners	1	0	1
Poulterers	2	0	2
Tailors	8	9	17
Shoemakers	7	10	17
Smiths	4	10	14
Wheelwrights	2	4	6
Cabinet Makers	0	10	10
Porters	5	0	5
Printers	3	4	7
Shipwright	1	0	1
Plumbers	1	1	2
Tanners	2	0	2
Engineers	3	2	5

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7th Sept. 1849.

TRADES OR CALLINGS.	Number landed at Sydney, to 2d Sept.	Number landed at Port Phillip, to 23d July.	Total.
Calico Printers	1	0	1
Watchmakers	1	2	3
Upholsterers	1	1	2
Clerks	4	2	6
Brassfounders	1	0	1
Coachmakers	4	4	8
French Polishers	1	0	1
Painters	6	8	14
Iron Founders	1	1	2
Furriers	1	0	1
Cork Cutters	1	0	1
Paper Stainers	1	0	1
Book-keepers	1	0	1
Errand Boys	1	1	2
Account-book Makers	2	0	2
Engine Drivers	1	0	1
Leather Dressers	1	0	1
Gunmakers	2	0	2
Woolcombers	1	0	1
Calenderers	1	0	1
Tinplate Workers	5	2	7
Saddlers	1	9	10
Oil Warehousemen	1	0	1
Scientific Carpenters	1	0	1
Pewterers	1	0	1
Coal Miners	3	0	3
Cotton Spinners	3	0	3
Wool Spinners	1	0	1
Policemen	1	0	1
Copper Miners	1	0	1
Stationers	1	0	1
Book-binders	2	4	6
Weavers	1	0	1
Machine Makers	1	0	1
Ironmongers	1	0	1
Wharfingers	1	0	1
Silk Weavers	2	0	2
Storekeepers	1	0	1
Riding Masters	1	0	1
Drapers	2	0	2
Whitesmiths	0	3	3
Coopers	0	4	4
Machinists	0	1	1
Silversmiths	0	1	1
Opticians	0	1	1
Coachsmiths	0	1	1
Bellows Menders	0	1	1
Coppersmiths	0	2	2
Turners	0	1	1
Coach Trimmers	0	2	2
Iron Moulders	0	2	2
Tallow Chandlers	0	1	1
Engravers	0	1	1
Surveyors	0	1	1
Lath Renders	0	1	1
Hammermen	0	1	1
Sailmakers	0	1	1
Millwrights	0	3	3
Toolmakers	0	1	1
Ropemakers	0	1	1
Lapidaries	0	2	2
Wool Sorters	0	2	2
Cloth Finishers	0	1	1
Nail-makers	0	1	1
Total	238	289	527

Enclosure No. 2.

F. L. S. Merewether, Esq.

7th Sept. 1849.

TRADES OR CALLINGS.	Number landed at Sydney, to 2d Sept.	Number landed at Port Phillip, to 23d July.	Total.
FEMALES:			
Housekeepers	0	2	2
Cooks	1	3	4
House-servants	37	29	66
Housemaids	10	6	16
Nursemaids	7	4	11
Dairy-maids	2	0	2
Farm-servants	2	0	2
Nurses	1	0	1
Governesses	1	1	2
Lady's Maids	0	1	1
Dressmakers	4	2	6
Milliners	1	0	1
Needle-women	0	2	2
Flower-makers	1	0	1
Weavers	1	0	1
Total	68	50	118
Grand Total	306	339	645

Amount contributed by immigrants under the assisted emigration regulations, towards the passages of themselves and their families; viz.

	£	s.	d.	£	s.	d.
Sydney district	2,351	0	0			
Port Phillip district	2,846	0	0	5,197	0	0

Amount chargeable to the colony for the balance of the passage money of assisted emigrants and their families, including gratuities to surgeons, masters, officers, &c.; viz.

	£	s.	d.	£	s.	d.
Sydney district	4,567	5	3			
Port Phillip district	5,318	2	6	9,885	7	9
Total cost				15,082	7	9

Government Immigration Office,
Sydney, September 1849.

FRANCIS L. S. MEREWETHER,
Agent for Immigration.

Wednesday, 12th September 1849.

PRESENT,

ROBERT LOWE Esq. in the Chair.

The COLONIAL SECRETARY.
The SPEAKER.
JAMES MACARTHUR Esq.
LAUCHLAN MACKINNON Esq.
WM. CHAS. WENTWORTH Esq.

Mr. JAMES BEUZEVILLE called in, and examined:

Mr. J. Beuzeville.

12th Sept. 1849.

1. How long have you resided in the colony?—I arrived in May 1848.
2. You have been engaged in the culture and manufacture of silk in Europe?—Yes.
3. In what part of Europe?—In Spain, in the neighbourhood of the city of Valencia.
4. How long did you reside there?—Seven or eight years.
5. What was your occupation during that time?—The growing and reeling of silk.
6. Did you follow that pursuit to any considerable extent?—The greatest quantity that was reeled under my superintendence in any one year was twenty thousand pounds of silk.
7. Since your arrival here your attention has been directed to the cultivation of the mulberry and the silk-worm in this colony?—Yes.

 8. What

Enclosure No. 2.
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8. What do you think of the capabilities of this climate and country for the growth of silk?—I think them exceedingly well suited to the production of silk and the growth of the mulberry tree.

9. Is that a mere speculative opinion, or one fortified by experience on the subject?—Fortified by the results of the experience of last year at the Experimental Silk Institution.

10. Will you state what has been the nature of the experiment, and the results which have attended it?—The experiment commenced by making a plantation of the various sorts of mulberry,—the multicaulis, Cape, and other sorts; and the results have been most decidedly in favour of the multicaulis.

11. That is to say, it grows better?—It grows better, and stands the drought better than any of the other species; in the drought of last year there was not a single failure or discolouration of the leaf. The multicaulis is also of a more nutritious nature; and the worm, when fed upon it, produces a better silk than from any other sort. It is very prolific, very easily propagated, and requires but little attention.

12. What species of mulberry is used in Spain?—The rose-leaved Spanish mulberry.

13. Is that species in this colony?—I have not seen it. I brought some plants with me, but they died on the passage.

14. Do you know the scientific name for it?—No, I have forgotten it; but it is a variety of the morus alba.

15. What is the extent of the plantation you have at the Experimental Silk Institution?—About five acres.

16. To what extent have you carried on the breeding of the worm?—To the extent of making a sample of silk which has been sent to England, and preserving eggs for the following year, probably sufficient to produce one or two hundred thousand worms.

17. What quantity of silk have you made?—A sample of about one pound.

18. Do you think the capabilities of this colony for the production of silk are equal to those of the South of Europe, Spain, and the silk-growing parts of France?—I think quite so; rather superior, judging from the experiments I have made here. I think twenty per cent. more silk can be obtained here from a given quantity of cocoons than in Spain.

19. Will you describe the class of persons who might be most appropriately engaged in this description of industry, the cultivation of the mulberry, the rearing of silk-worms, and the filature of the silk?—The cultivation of the mulberry, I imagine, must be attended to by men; the planting, weeding, and so forth.

20. Can you speak as to the amount of labour required for the cultivation of a given quantity of land for the growth of the mulberry?—I can hardly form a decided estimate upon that point. We calculate that something like seven hundred and fifty trees can be planted to the acre; and a certain amount of labour would be required to go over that ground, probably twice, or perhaps thrice a year.

21. That would depend a good deal on the character of the soil?—Yes. The rearing of the worm would naturally form a suitable occupation for children and young females, varying from eleven years old upwards.

22. This would be done in their own houses?—The raising of the worm, but not the reeling of the silk.

23. By having a few mulberry plants growing in the gardens attached to their houses?—The leaves could be obtained from the plantation, and the silk reeled in the filature.

24. Can you give any idea as to the value of the produce of the labour of a family of three or four children engaged in this occupation?—The calculation is, that it would occupy a single person for thirty-six days to rear forty thousand worms, and these would produce cocoons, when *properly* attended, which would be worth 5*l.*

25. *By the Colonial Secretary.* What would be the total weight?—The weight of the cocoons would be from 100 to 120 lbs.

26. What quantity of silk would that actually produce?—About ten pounds.

27. The filature forms a separate branch?—Yes.

28. Do you think this species of industry might become an important element in the general industrial pursuits of the colony?—I think it is calculated to become very important.

29. What do you think would be the most appropriate means to give encouragement to it, and in what way could the attention of the labouring classes be turned to it?—The art is at present unknown in the colony; the more proper way would be to instruct parties, which could be done, I imagine, as I originally proposed some time since, by a sort of model establishment being formed.

30. What do you think of introducing a few immigrants from the South of Spain?—I think it might be done; and as they are practically acquainted with the growth and reeling of silk, it would be the means of disseminating the practical knowledge quicker than could be done from one single focus as at present.

31. Have

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31. Have you the proper description of worm here?—I think it is a very good sort of worm, but it has been sadly neglected; I have, however, already commissioned parties to obtain for me various other descriptions of worms from almost all parts of the world; I have at the present moment some eggs from Bordeaux, but I am afraid they have been spoiled on the voyage. Worms are easily obtained; the first thing is to produce the mulberry.

32. Does the description of worm make any great difference in the value and fineness of the silk?—There are only two descriptions of worms, one of three casts or moultings and the other of four casts or moultings; they both produce equally fine silk; the difference is in the quantity per cocoon.

33. Is there any greater strength in the staple?—No; I think the staple about equal.

34. Is one worm more hardy than the other?—I think there is a slight difference, and that the four cast is rather more hardy than the three cast; but in this climate I do not think that a matter of any consideration.

35. What are the particular seasons which it would be proper to adopt for the culture of the worm?—The present is the time for the spring crop; I have at this moment some three or four thousand worms in the course of rearing; I had them as early as the 24th of August, by spontaneous hatching.

36. Were they exposed to the sun?—Not at all; on the contrary, they should be withheld from the sun; but it requires management to be able to hatch them at certain times, so as to have a quantity to pass through their different stages at one particular time; it occasions a great deal of trouble if they are not all in the same stage about the same time.

37. Are there any peculiarities of climate here which render it necessary to adopt other precautions than are adopted in other countries?—I think not at all; I think it unnecessary here to take a great many precautions which they are obliged to take in Europe; for instance, they would be obliged to heat the rooms, which would not be necessary here.

38. Is there not a fear, from the peculiarities of the climate, that almost all the eggs would hatch about the same time, as the hot season came on; how would you prevent that?—I have kept the eggs which I preserved up at Eastwood, in a temperature averaging fifty-nine, and I found that until a certain time, apparently the time when the mulberry begins to bud, they did not hatch, showing, I imagine, that when the proper time arrives they will hatch of their own accord.

39. Is it not desirable that you should be able to spread over a certain time the production of the worm, so that the same individuals might attend to them?—I do not think that could be done; I think they would all hatch within four days, and it is a most desirable thing in an extensive establishment that they should all hatch in a certain number of days, so that they might pass through their stages together.

40. Is there any difference in this climate in the time occupied by the worm coming to maturity compared with other countries?—I should say they would arrive at maturity sooner in this country than in the South of Europe, by a few days, in consequence of the extra warmth. Some worms there are that may be hatched so many as twelve times in a year, but I think it is not desirable to attempt it more than three times; I think we might manage that here very well. In Europe they cannot do it more than twice; and for the second crop the leaves are gathered with great hazard to the trees; we have not the worm here that can be hatched more than once a year, but we have sent for some of them; from the best of the Bengal filatures, i. e., Commercolly.

41. You say you may have as many as twelve crops?—In some parts of Asia they have; but I should not think it desirable to have them here. I think it desirable they should be confined to the nine months which may be termed the season here.

42. Do you think that during nine months of the year it would be favourable to the culture of the worm?—I think decidedly so; the drought was the only thing I feared, and in the drought of last year the leaves of the multicaulis did not turn at all, or differ in the slightest degree; they had no water given them.

43. Do I understand you that the objection to the multiplication of the number of crops is from its not being desirable to strip the trees more than three times in the year?—Yes.

44. Do the worms degenerate from having too great a number of crops in the same season?—I do not imagine that they do; although I cannot say from practical experience, never having had more than two crops in a year.

45. Have you made any experiments with the leaves of any of the native trees of the bush, to see whether they were favourable to the worm?—No; I had but a poor sample of eggs last year, and my attempts were to improve them, and I think I have succeeded; for the worms this year are very far superior to those of last year.

46. *By the Speaker.* Looking to the cheapness of labour in the South of Europe, do you think this colony can ever successfully compete with those countries?—I think so; because the cost of the labour for the production of a pound of silk is small in comparison with the value of the silk.

47. *By Mr. Cowper.* You propose this should be done by women and children?—Yes; by families.

48. *By*

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48. *By the Colonial Secretary.* Would there be employment for the men of the families?—To a certain extent; but the men might be employed in other matters more profitable; their families could attend to the worms, and gather the leaves, having a small portion of ground attached to their houses, where the trees might be grown.

49. It would not be necessary to have the labour of the men for the plantation?—Very trifling. I mean to keep it in order.

50. Is it necessary that the plantation should be dug, and kept free from grass?—The ground should be broken up twice, and kept free from couch grass.

51. *By Mr. Mackinnon.* In planting mulberries is it necessary to trench the ground?—I think not; the ground has not been trenched in our plantation; but we dug deep when we put the trees in.

52. In what description of soil does the mulberry thrive best?—It does not require a damp soil; a dry soil is not unfavourable to it.

53. Does it require a rich soil?—No, it wants a light soil.

54. *By the Chairman.* Would it grow in a sandy soil?—I have understood that there is a plant of the white mulberry in the sandy soil of the Surrey Hills, which is flourishing; but I have not seen it.

55. *By the Speaker.* You think the raising of the silk-worm might be made an accessary species of industry, by which the families of men engaged in the cultivation of small farms might increase their incomes?—Yes; it is an accessary to the general business of the farmers in Spain and France, and other silk-growing countries.

56. *By Mr. Macarthur.* Have you had an opportunity of directing your attention to the culture of the olive?—I did not attend to that; but I think this climate equally well qualified for the growth of the olive as for the production of silk.

57. *By the Speaker.* Can you state the quantity of silk you expect to produce this year?—I can hardly say; for the mulberry trees are not forward enough to enable me to judge what quantity of worms they will feed; but I do not expect to produce much, probably 20 lbs.

58. What is the value of one pound of silk?—About twenty shillings; such as we should produce here. We have not had the opportunity of carrying on our operations during the winter as I could wish to have done.

59. *By Mr. Cowper.* You have been stinted in your means?—Entirely.

Mr. T. Bowden.

Mr. Thomas Bowden called in, and examined.

1. How long have you been in the colony?—Between four and five months.

2. You came here under the auspices of the Rev. Dr. Lang?—Yes.

3. *By Mr. Cowper.* You went to Moreton Bay on your first arrival?—Yes.

4. Under what circumstances or engagement did you come to the colony?—Dr. Lang offered to pay the passage out for myself, my wife, and family. I was to have eighty acres of land when I arrived here, so that I might form a company for the growth of the sugar cane.

5. *By the Speaker.* You had your passage paid?—Yes.

6. *By Mr. Cowper.* When you got to Moreton Bay you did not find your expectations realized, as to obtaining the land promised?—Dr. Lang had no land there, apparently.

7. *By the Speaker.* You have been engaged in the cultivation of the sugar cane?—I have been fourteen years engaged in the cultivation of sugar and coffee, chiefly sugar.

8. What do you think of the capabilities of Moreton Bay as a sugar-growing country?—I think it would answer well; I never saw finer soil in the West Indies.

9. Is the climate warm enough?—Quite warm enough.

10. *By the Colonial Secretary.* Have you been in Demerara?—I have never been there; but I believe it is a marshy soil there, and produces a strong cane, but does not yield so much sugar to the acre as Jamaica, but more rum; the sugar or rum produced there is not however of very good quality.

11. *By the Chairman.* What land have you seen in the neighbourhood of Moreton Bay which you think favourable to the growth of the sugar cane?—What is called scrub, near the banks of the Brisbane river, and close to the township; and indeed there is along the banks of the river, from its entrance almost to the township, a very good soil for the growth of the cane.

12. *By the Speaker.* Is there not frost at Moreton Bay?—Not sufficient to affect the sugar cane, nor even the banana, which is much more tender than the sugar cane.

13. Do you think, with the price of free labour here, sugar can be grown with profit?—I am certain of it, from the advantage held out of having an estate on the bank of the river.

14. Had

14. Has it not been proved, by the experience of the whole world, that sugar has never been able to be grown by free labour?—I have never known it grown by white labour.

15. Yet you conceive it is probable that sugar may be grown with profit at Moreton Bay by European labour?—Yes; I certainly think so.

16. Have you made any calculations upon the subject?—Yes; I have made some, which have published.

17. Will you have the goodness to furnish the committee with them? (*The Witness handed in the same. Vide Appendix.*)

18. *By the Speaker.* There has been great improvement in the mode of cultivating the sugar cane?—Yes; the plough has been introduced.

19. A great deal is now done by machinery which was formerly done by manual labour?—When I first went to the West Indies the ground was opened by the hoe; now we open it with the plough.

20. *By the Chairman.* What is the next process?—Planting the cane.

21. What time of the year would you open the ground?—About November.

22. When do you plant the cane?—Immediately the land is opened.

23. Planting the cane is done by hand?—Yes.

24. How are the holes made?—We plough the land about eight inches deep, and form a high bank on each side, similar to turnip holes, only much deeper. We then place the cane at the bottom of the hole. The sucker, or plant, may be about two feet long.

25. *By Mr. Macarthur.* What distance are the rows apart?—Four feet and a half.

26. And the distance between the canes?—About eight inches. There are two plants in about four square feet.

27. *By the Speaker.*—What is the next process; do you throw the earth into these holes?—We cover the plant lightly with earth, if wet weather; if it is dry weather, about two inches deep. In moist seasons the young cane comes up about three weeks after planting. The cane must be kept clear from grass and weeds, and the mould must be thrown in round it gradually.

28. That is done by the hoe?—It is weeded by children. This work is all done by children in the West Indies.

29. Is anything done before cutting?—It requires three cleanings before it gets the whole of the bank so as to level the ground.

30. At what intervals are these made?—It depends upon the weather; perhaps six weeks. They generally require three trashings after that; the cane throws out at the joints two leaves which require to be taken off, or they throw out a root; the taking off the leaves is called trashing. At Mr. Jones's garden at Brisbane I saw some very fine canes, and told him that the reason they did not thrive well was that he did not understand the mode of culture; at all the joints fresh roots were being formed.

31. *By the Colonial Secretary.* Are those leaves useful?—Yes; they are put between the rows and answer as manure; besides which when the cane is blown down it lodges on the leaves, and is thus prevented from rotting.

32. *By the Chairman.* Is that trashing a laborious occupation?—I have known two negroes to trash an acre a dav since their emancipation, when it has been done by task work.

33. What is the next process?—The cutting; after three or four trashings, at the end of about fourteen months.

34. You say about fourteen months; thus if the canes were planted in November '49, you would cut them in January '51?—Yes.

35. Then do the plants remain in the ground?—Yes; I have known a cane to grow and not be cut up for twenty years; but great care is required in taking these canes off.

36. What is the instrument used in cutting?—A bill-hook. They cut them close to the ground, or rather under the ground.

37. Is that a laborious process?—No; it is all done by women.

38. It does not require any great strength to separate the cane?—Not at all; it is very light work.

39. What do you do with the canes when they are cut?—Take them to the mill and grind them.

40. Is that done by steam?—Steam or water power.

41. Does it require much labour to assist in working the mill?—Not at all; we have three rollers, either vertical or otherwise; one person carries the cane, and another feeds the mill, and the juice runs by a small guttering into the boiling house.

42. The boiling is the last process?—Yes.

43. Is there much labour required in that department?—No; it would require four men in the boiling house.

Enclosure No. 2.

Mr. T. Bowden.

12th Sept. 1849.

44. Would the manufacturer require much experience?—That is the principal point; the manufacturing is the most difficult process.

45. Have you calculated what amount of labour, at per acre, you would require?—I have not exactly calculated.

46. Take your farm of eighty acres; if you had got it, how many persons would you have required?—That I could not answer without much calculation; it would depend upon how the land was disposed of. I have made a calculation for a two hundred acre estate in full operation; there would be allowed,—

For grass for the works, &c.	50 acres.
Plants	30 „
First rattoons	30 „
Second rattoons	30 „
Third rattoons	30 „
For fallow to be broken up next year	30 „
	200 acres.

47. How many hands would you require to cultivate that?—I have calculated the cost of the cultivation at 4*s.* a day for each labourer.

CULTIVATION.

30 acres of plants would cost	£156
30 „ first rattoons „	93
30 „ second rattoons „	54
30 „ third rattoons „	36
	£339

I consider that the returns would be—

From 30 acres of plants	90 tons.
„ 30 „ first rattoons	60 „
„ 30 „ second rattoons	30 „
„ 30 „ third rattoons	15 „
	195 tons.

Lower than that would not pay for the trouble of cultivating. That would give 7,800 gallons of rum thirty per cent. o.p.

48. *By the Colonial Secretary.* Do you consider it absolutely necessary to the success of the undertaking that you should be permitted to distil this rum?—Certainly.

49. Is there no other way in which the refuse could be turned to account?—The molasses might be sold; but the skimming could not be used in any other way.

50. Might it not be turned to account for feeding hogs?—If sugar-growing establishments were numerous, the country would be overrun with hogs.

51. *By Mr. Mackinnon.* Does this 339*l.* include all the expenses of manufacturing the sugar?—No, that is the expense of cultivation.

52. *By the Chairman.* At what do you estimate the rum per gallon?—I have put it down at four shillings.

53. What does that make?—1,560*l.*

54. What would be the expense of manufacturing?—

Manufacturing 195 tons of sugar would cost, at 30*s.*	£292	10	0
Ditto 7,800 gallons of rum	42	5	0
195 sugar hogsheads	97	10	0
rum casks	25	0	0
Manuring 30 acres of land	60	0	0
Watchmen, stockmen, &c.	140	0	0
Overseer's salary	120	0	0
Bookkeeper's salary	80	0	0
Incidental expenses, such as fencing, &c.	200	0	0
Freight	292	10	0
Commission	280	0	0
Cultivation	339	0	0
	£1,968	15	0

55. Then it would cost 1,968*l.* 15*s.* to produce this; what would it sell for?—When the estate got into full operation, I calculate that it would produce 4,500*l.*

56. At what price do you estimate the sugar that would be produced?—At 16*l.* a ton.

57. *By*

57. *By the Speaker.* Do you know that sugar can be purchased here at the present time at 9*l.* or 10*l.* a ton?—Yes; but not such sugar as this would be.

58. You cannot say how many labourers you would require?—No, not exactly; from 27 to 30 perhaps.

59. *By Mr. Mackinnon.* Do these calculations apply to the working of an estate in Jamaica?—No; to the working of an estate here.

60. *By the Chairman.* You have not been here during the summer?—No.

61. Do you think white labourers can endure the heat at Moreton Bay better than in the West Indies?—I understand the labourers at Moreton Bay work all through the summer; and there are a number of sawyers there who are occupied in cutting trees, which is much more laborious than any work connected with sugar cultivating.

62. *By the Colonial Secretary.* Is there greater exposure in the cultivation of maize than in sugar growing?—Much the same; we cultivate maize with the cane.

63. Maize is cultivated to a considerable extent at Moreton Bay?—They have commenced its cultivation there lately.

64. *By Mr. Macarthur.* Is the maize planted between the rows of cane?—Yes; the maize is planted at the distance of every four feet, and by the time the cane grows to five feet high the maize is fit to come out.

65. What do you consider a good crop of maize grown in the West Indies?—About forty or fifty bushels; we merely cultivate it for the supply of the farm.

66. *By the Speaker.* Does the cultivation of sugar pay in the West Indies?—When well managed. The rum formerly paid all the expenses of an estate, leaving the sugar clear profit.

67. Has it paid the cultivators since the abolition of slavery?—We cannot get continuous labour now; and for two years after slavery was abolished the negroes neglected to work, and the cultivation could not be continued as it ought to have been carried on, the land was not properly manured, and became so much worn out that instead of producing three or four tons an acre, it was with great difficulty we could get one or two.

68. As it does not pay the cultivators in the West Indies, why do you think it will pay here?—There is better land here; virgin land in the first instance, and in the second place we could get continuous labour. The negroes will never make a bargain for more than one day. I have often had ten tons of sugar cane cut down ready to go to the boiling house, and the men have gone away for a week or ten days leaving it on the ground.

69. Was that cane destroyed?—Not entirely; but we were obliged to cut off the ends of the cane which became sour, and the rest made only an inferior quality of sugar; at other times they would leave the fields until the grass had grown up and destroyed the young crop.

70. You are aware of the general condition of the labour market here, that the price of labour is high?—I am aware of that; and I have made my calculation at 4*s.* a day for all the labour required. I should propose in future to have Chinese labourers to assist in this cultivation. There is nothing to prevent our growing as good sugar here as at Jamaica; but we shall not do so at first.

71. *By the Chairman.* After the first crop is taken off, how long is it before the next crop can be taken off?—It can be cut again in twelve months.

72. You say Moreton Bay will produce sugar because there is not frost sufficient there to injure the banana?—Yes. I have been there two months, during which time there were some frosts.

73. It is a hardy plant?—Yes, I have seen it growing in Mr. Jones's garden; it is a very fine plant, but they do not know how to cultivate it at all.

74. *By the Colonial Secretary.* In your calculation you have not supposed that any duty will be charged upon the rum produced on a sugar estate?—Yes, certainly; I have made my calculation at four shillings per gallon, supposing that to be the price in bond.

75. That would make it 7*s.* 6*d.* per gallon?—I understand that to be about the price.

76. The imposition of a duty of 3*s.* 6*d.* per imperial gallon would not affect your calculations?—No. I am sure we cannot make rum under the present law.

77. *By the Chairman.* Under the distillation act?—Yes; we do not set our liquor above fourteen per cent. in Jamaica, but I believe in the distilleries here they set eighty or ninety.

78. *By Mr. Mackinnon.* Is it found in the West Indies on the plantations where rum is made that there is more drunkenness than on coffee plantations?—No; I suppose there is no race of men less addicted to drunkenness than the negroes; they are very rarely intoxicated, except perhaps at holiday times.

79. *By the Speaker.* I suppose this rum would be very superior to what we now get?—Yes; it would be distilled from a superior sugar, and nothing else.

80. *By Mr. Macarthur.* I understood you to say that the soil at first would be too rich to grow best quality sugar?—Yes.

81. How

Enclosure No. 2.

Mr. T. Bowden.

12th Sept. 1849.

81. How long would it take to reduce it?—The first rattoons would give good quality.

82. How long, to the best of your judgment, do you suppose the soil at Moreton Bay would continue to produce good cane without manure?—I should think six or seven years. I never cultivated finer soil than some of that at Moreton Bay.

83. What kind of manure do you generally use?—Cattle manure; we pen our cattle on the soil and supply them with fodder, either grass or the tops of the canes. The top of the cane is the finest fodder for stock.

84. Your proposed division of the estate has reference more to the West Indies than to Moreton Bay?—I referred to Moreton Bay certainly.

85. *By Mr. Wentworth.* It would require very considerable capital to work a sugar estate; is not the machinery very expensive?—I could erect the machinery here for about 1,780*l.*, steam engine included, a steam engine complete for 700*l.*, capable of making two tons of sugar in twelve hours.

86. *By Mr. Mackinnon.* In your calculation do you make any allowance for interest and wear and tear?—No.

87. *By Mr. Wentworth.* Do you know any celebrated sugar country, where sugar is produced to any extent and with profit, situated in the latitude of Moreton Bay?—I am not aware of any, certainly; but I believe in some parts of South America they have produced sugar.

88. What is the latitude of Moreton Bay?—27° 30′.

89. Do you know any sugar country in that latitude?—I cannot say that I do.

90. *By Mr. Macarthur.* Do you know whether sugar is grown on the east coast of Spain?—No.

91. *By the Chairman.* Is it not grown in Carolina?—I think so. I have not the least fear of the climate at Moreton Bay; and I have been there in the two coldest months.

92. Sugar will grow in Mexico?—Yes.

93. Do they not grow it in Lousiana?—Yes; I believe so.

94. Then you are of opinion that there would be employment here for a large amount of capital and labour in the growth of sugar?—Yes; and such labour as could not affect the tending of sheep; large families could be profitably employed, as a great deal of the labour is performed by children. We never employed men in cleansing the land or in trashing the canes.

95. *By Mr. Wentworth.* Would not the proper means of cleansing the canes be by ploughs or scarifiers?—You cannot use machinery, because it is liable to injure the cane.

96. It must be done by hand?—Yes; we tried everything in the West Indies, with horse hoes and scarifiers, but they were no service whatever.

97. *By Mr. Macarthur.* At what do you calculate the expense of clearing the land per acre?—I have allowed 4*l.* per acre.

98. *By Mr. Cowper.* Have you a likelihood of obtaining sufficient support to enable you to form a company here?—I think I may say that the company is formed. I believe I shall return to Moreton Bay to select the land.

99. *By the Chairman.* You calculate 4*l.* an acre for clearing the land?—I have taken the opinion of a practical man upon the subject, Mr. M'Connel, who is of opinion that that would be sufficient.

100. What kind of land is it; is it very thick brush?—No; not very thick.

101. *By Mr. Wentworth.* Is there not a great deal of land entirely cleared that would answer for this purpose?—It is of very inferior quality, and would not grow canes.

102. *By the Chairman.* I understood you to say there were many thousand of acres which would answer for this purpose?—Yes; on the banks of the Brisbane and Bremer.

103. That you have seen yourself?—Yes, close to the river side, where there would be no expense for carriage. The land carriage is a great tax upon sugar planting in the West Indies; there is great wear and tear of stock, as well as the liability to a great deal of plunder.

104. The land you allude to is on the banks of a navigable river, and may be approached by steam boats?—Yes; and that gives it an advantage over any other part of the country. The cane could be grown three or four miles from the mill, and brought to the mill by boats, to be manufactured into sugar.

105. As to coffee, is there any opening for the cultivation of coffee?—I think it would grow in positions sheltered from the south-west winds, but there is cold wind in the morning which in blossoming season would affect it, but if sheltered from these winds I am certain it would grow there.

106. The coffee plant is more delicate than the sugar cane?—The coffee plant is most delicate in the time of blossoming.

107. Is

107. Is the cultivation of coffee a laborious occupation?—No, it is very simple; the greatest labour is picking and clearing; there is no labour to speak of, except hoeing the land, the same as in planting maize.

108. You have made no calculations with reference to coffee?—No.

109. Would cocoa grow at Moreton Bay?—I know nothing of that.

110. *By Mr. Mackinnon.* Would the guava plant grow at Moreton Bay?—Yes. It is quite a weed in the West Indies; if you leave a cane field in fallow for a few years, the guava grows all over it.

111. You cannot destroy the seeds?—No; it is dropped by birds.

112. *By the Chairman.* You do not contemplate the growth of any other tropical plant but sugar?—I should try coffee; the yam grows beautifully if people only knew how to plant it. One that I saw in Mr. Jones's garden was stuck in the ground the same as potatoes, but the mould should be cast up in a hill, and the yam should be put at the top of it; unless the land is soft around it, it cannot produce.

APPENDIX REFERRED TO.

CAPITAL required to establish a SUGAR PLANTATION.

	£	s.	d.
Land, 200 acres, at 1*l.*	200	0	0
Cleaning twenty acres, at 4*l.*	80	0	0
Erecting cottages	100	0	0
Twenty working bullocks	80	0	0
Two horses	24	0	0
One wain with yokes, &c., complete	30	0	0
Two trash-carts, with harness	34	0	0
Plough	10	0	0
Other implements	100	0	0
Cultivation and manufacture, including casks, &c.	220	0	0
In hand, for any incidental expenses, procuring plants, &c.	342	0	0
Steam engine and crushing mill, complete	700	0	0
A set of coppers	300	0	0
A patent still, 400 gallons	380	0	0
Erecting machinery	100	0	0
Ditto, boiling-house, curing-house, and still-house	300	0	0
	£3,000	0	0

Returns the first year of 10 acres of plant canes:

	£	s.	d.
30 tons sugar, at 16*l.*	480	0	0
1,200 gallons rum, 35 o. p., at 4*s.*	240	0	0
250 bushels maize, at 2*s.* 6*d.*	31	5	0
	£751	5	0

An average expense of cultivating an acre of canes, the land being cleared, with the returns for four years:

	CULTIVATION:	£	s.	d.	£	s.	d.
1st Year:	Ploughing	0	10	0			
	Planting canes and maize	0	10	0			
	3 cleanings at 16*s.*	2	8	0			
	3 trashings at 12*s.*	1	16	0			
					5	4	0
2d Year;	First cleaning, and plant maize	0	14	0			
	4 trashings at 12*s.*	2	8	0			
					3	2	0
3d Year:	3 trashings				1	16	0
4th Year:	2 trashings				1	4	0
					£11	6	0

	RETURNS:						
1st Year:	3 ton sugar at 16*l.*	48	0	0			
	120 gallons rum at 4*s.*	24	0	0			
	25 bushels maize at 2*s.* 6*d.*	3	2	6			
					75	2	6
2d Year:	2 ton sugar	32	0	0			
	80 gallons rum	16	0	0			
	10 bushels maize	1	5	0			
					49	5	0

Enclosure No. 2.

Mr. T. Bowden.

12th Sept. 1849.

		£	s.	d.	£	s.	d.
3d Year:	1 ton sugar - - - - - -	16	0	0			
	40 gallons rum - - - - -	8	0	0			
					24	0	0
4th Year:	½ ton sugar - - - - - -	8	0	0			
	20 gallons rum - - - - -	4	0	0			
					12	0	0
					£160	7	6

Manufacturing a ton of sugar, cutting and carting canes -		0	15	0			
Labour equal to 7½ able men, at 4*s.* - - - -		1	10	0			
Casks - - - - - - - -		0	10	0			
					2	15	0

Number of labourers required to make two ton of sugar in one day:							
2 cane carriers, 1 feeder, 4 in boiling house, 1 stoker, 1 boy,— equal to 8½ men, at 4*s.* - - - -		1	14	0			
2 trash-carts, at 5*s.*; engineer, 8*s.*; coals, 8*s.* - -		1	6	0			
					3	0	0

NEW SOUTH WALES.

COPY

OF A

DESPATCH from Governor Sir C. A. FITZROY to th SECRETARY OF STATE FOR THE COLONIES, transmitti the REPORT of a SELECT COMMITTEE of the LEGIS LATIVE COUNCIL of NEW SOUTH WALES on CROW LANDS in 1849.

Presented to both Houses of Parliament by Command of Her Majesty,

June 1850.

LONDON:
PRINTED BY GEORGE E. EYRE AND WILLIAM SPOTTISWOO
PRINTERS TO THE QUEEN'S MOST EXCELLENT MAJESTY.
1850.

NEW SOUTH WALES.

RETURN to an Address of the Honourable The House of Commons, dated 31 May 1849;—*for*,

"COPY of the DESPATCH of the Governor of *New South Wales* to the Secretary of State for the Colonies, together with the MEMORIAL of the LEGISLATIVE COUNCIL of the Colony, on the subject of QUIT-RENTS, and the REPLY of the Secretary of State thereto in January last."

Colonial Office, Downing-street, 4 June 1849.

B. HAWES.

—No. 1.—

(No. 139.)

COPY of a DESPATCH from Governor Sir *C. A. FitzRoy* to Earl *Grey*.

No. 1.
Governor Sir C. A. FitzRoy to Earl Grey, 9 June 1848.

Government House, Sydney, 9 June 1848.
(Received 25 November 1848.)

Original and Copy.

My Lord,

AT the request of the Legislative Council of this colony, I have the honour to transmit an Address from that body to the Queen, praying that Her Majesty "will be graciously pleased to give directions that the Claims of the Crown for "Quit-rents be absolutely remitted."

Having, in my despatch, No. 1, of the 1st January 1847, and No. 2, of the 4th January 1848, entered so fully into the subject of quit-rents due to the Crown in this colony, it is unnecessary that I should trouble your Lordship further on this occasion than by annexing a copy of the reply which I deemed it my duty to return to the Council, from which your Lordship will perceive that I held out no hopes that Her Majesty would be advised to comply with the prayer of this Address.

Message, No. 27, 16 June 1848.

I have, &c.
(signed) *Chas. A. FitzRoy.*

Enclosure 1, in No. 1.

TO THE QUEEN'S MOST EXCELLENT MAJESTY.

Most Gracious Sovereign,

WE, your Majesty's loyal and dutiful subjects, the members of the Legislative Council of New South Wales, in Council assembled, desire to approach your Majesty with the renewed assurance of our attachment to your Majesty's person and Government. Encl. 1, in No. 1.

We beg humbly to represent to your Majesty, that quit-rents of various rates have been imposed from time to time upon lands granted by the Crown in New South Wales.

That although such quit-rents were reserved in the grants by the respective Governors, they were never rigorously enforced until the administration of his Excellency Sir George Gipps, who justified the collection of them on the ground of the debt upon the territorial revenue. That the delay which occurred in their exaction created a belief, which was universally entertained, that the Government would never require them to be paid, or if paid at all, under concessions which would materially lessen the hardship of their collection. Instances are indeed numerous of purchasers having, under such a persuasion, bought lands at their full value, without any reference to the quit-rents chargeable thereupon.

That this belief was entertained more especially with reference to country or pasture lands, upon which, in the year 1826, the excessive quit-rent of 2 *d.* per acre was fixed.

That the Council beg humbly to refer to the evidence appended to the Report of the Select Committee appointed on the 30th of May 1844, to report upon all grievances connected with the lands of the colony, to show that the feeling generally entertained upon this subject has been as is there represented.

That although the local Government admitted that some remission of quit-rents ought to be made, no definite proposition for their commutation was made until the Regulations published by His Excellency Sir Charles Augustus Fitzroy, on the 9th of October 1846.

That these regulations, although conceived in a spirit which entitles the framer of them to the grateful acknowledgments of the colonists, were wholly insufficient to meet the justice of the case.

That soon after these regulations were published, remonstrances were addressed to his Excellency, who declined to consider any suggestions pending the reference of the subject to the Imperial Government. That having waited with great anxiety until the time approached for the redemption of the quit-rents under the regulations, and not having heard that the decision of Her Majesty's Government had been received, a memorial was presented to his Excellency, a copy of which, together with the reply, is in the Appendix. That this reply caused very great disappointment, as the persuasion had been indulged that if the Government intended to make concessions, it would be willing to receive and to consider favourably any representations pointing out the inadequacy of the principle upon which the proposed concessions were made.

The Council humbly beg to urge upon the attention of your Majesty that, with reference to the neighbouring colony of Van Diemen's Land, the principle has been sanctioned, upon the recommendation of the Land and Emigration Commissioners, of making all parties liable to the payment of quit-rent, upon one low and uniform rate; that this principle is that recommended by the Council in the year 1844, but which has never yet been recognized with reference to this colony, although we humbly submit that there is no argument which can be urged in its favour, as regards Van Diemen's Land, which does not apply with greater force to New South Wales.

That, in addition to the precedent, the Council beg also to bring under the notice of your Majesty, that your Majesty and the Imperial Parliament have passed an Act (10 & 11 Vict. c. 57), cancelling the claim for quit-rents against the Van Diemen's Land Company, on the ground of their having maintained a sufficient number of convicts to save to the British Government 25,000 *l.*, as the cost of their maintenance for 20 years, at 16 *l.* per annum; assuming, what we have no doubt is the fact, that during the 20 years immediately preceding the abolition of transportation, there were annually 10,000 convicts in assignment in this colony, the saving to the British Government would be, at a similar calculation, 3,200,000 *l.*, a sum compared with which the whole amount of quit-rents due by this colony is utterly insignificant.

That the policy of the Home Government with regard to this colony has virtually destroyed the saleable value of lands within the settled districts; and the Council respectfully submit, that to insist upon the payment of quit-rents upon pasture lands, under the altered circumstances produced by that policy, will be felt as a grievous hardship.

The Council therefore earnestly entreat the favourable attention of your Majesty to the circumstances above detailed, and humbly pray that your Majesty will be graciously pleased to give directions that the claim of the Crown for quit-rents be absolutely remitted.

(signed) *Charles Nicholson*, Speaker.

Legislative Council Chamber, Sydney,
16 May 1848.

APPENDIX.

To His Excellency Sir *Charles Augustus FitzRoy*, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c. &c.

May it please your Excellency,

We, the undersigned holders of land chargeable with quit-rents of 2 *d.* per acre, finding that instructions have been given for levying for their payment, beg leave respectfully to address your Excellency as to the hardship of enforcing the collection of that rate or quit-rent under the altered circumstances of the colony. In making this representation, we desire to express to your Excellency our grateful acknowledgment of the consideration and sense of justice which induced your Excellency to sanction the remission of arrears; and so desirous are we to be relieved of the anxiety attendant upon those outstanding claims, that we would most willingly do all in our power to have the matter settled upon equitable terms.

We respectfully submit, however, that the regulations of October 1846 do not place the debtor who has paid up some part of his quit-rent upon so good a footing as the individual who has not paid any portion, and the feeling of injustice occasioned by this feature in the regulations has tended to create a persuasion that some modification of them would be eventually made. Memorials suggesting and praying for such modification would, we are assured, have been ere this presented, but from its having been made known that your Excellency, with the advice of the Executive Council, declined to attend to any such representation pending the reference made to Her Majesty's Government respecting them.

We respectfully suggest to your Excellency that if that is a valid reason for refraining from attending to any application for their amendment, it is an equally valid reason for delaying to enforce payment of the quit-rents at all until the expected communications upon the subject shall be received.

We further beg to state that the present time is peculiarly unfortunate for the adoption of such a course as the Government appears to have resolved upon. Not only have the wheat and maize crops failed, owing to the drought with which the colony is now visited, but

but the landlords have generally been obliged in consequence to forego their claims for rents, and to lose the return which they might reasonably have expected for the capital expended in improvements upon their lands. We would here repeat the statement which has been frequently made, that a large proportion of the lands upon which the heavy quit-rent referred to is chargeable, are of so inferior a quality, that they would not have been considered worthy of purchase even at 5 *s.* per acre, being in many respects refuse lands which would never have been selected as grants but in consideration of their giving a title to the services of convicts, and under a belief, to which the delay of the Government in calling for payment gave encouragement, that they never would be enforced. Whereas, after the assignment of convicts has been discontinued for years, and at a time when the colony is suffering from other causes, as well as from the grievous want of labour which is now occasioning such serious inconvenience to the agriculturists and flockmasters, the payment of this quit-rent, which under the most flourishing circumstances of the colony was regarded oppressively high, is to be levied by distress and sale.

The enhanced rate of wages, and the depreciation in the price of wool, are such as to annihilate our means of paying the charge alluded to. Owing to the former cause, we cannot calculate upon any profits whatever; and to the latter, the resources of the colony have been diminished at least 300,000 *l.* Indeed, our inability to pay these quit-rents is so obvious, that should the Government carry out its resolution to compel payment, very great distress will be created, property will be sacrificed, and the credit of many individuals, who have no means of raising the required amount, will be destroyed.

We submit, too, with deference, that our case forms a striking contrast to that of the holders of Crown lands beyond the boundaries of location, under the late Land Orders. While they are allowed to occupy lands selected from millions of acres, and consequently, of much superior quality, at a rent from 3-20ths to 3-16ths of a penny per acre, we feel it to be inequitable that we should be subjected to a charge of 2 *d.* per acre for inferior lands, more particularly when it is taken into consideration that this charge applies almost exclusively to the purchasers of land to a large amount, the payment for which has been the chief means of promoting the immigration to the colony of shepherds and servants employed by the licensed occupants of Crown lands, who hold them upon terms so much less burdensome than ourselves.

The only objection which we can anticipate to our being relieved from this impost is that others have been able to redeem the charge. But we would observe, that such redemption, where it has been made, has either been forced by insolvency, or superinduced by the favoured locality or superior quality of the lands subject to the quit-rent. Were our lands sufficiently valuable, we should doubtless have been enabled, and found it to our interest to do the same; but unfortunately this is not the case.

We observe that the Land and Emigration Commissioners, in their last Report, admit, with reference to Van Diemen's Land, that "the difficulty of the quit-rent question has "been increased by the different rates established by different sets of regulations," and they accordingly suggest, that "a general measure of commutation should be adopted, calculated "upon the assumption that all parties are liable to one low and uniform rate of payment." To this suggestion it appears that the Secretary of State has informed the Governor "he sees no objection." We humbly submit that the same principle ought also to be carried out in this colony, and the quit-rent of 2 *d.* per acre reduced to the old scale of 2 *s.* per hundred acres, which was the rate recommended by the Legislative Council in the Crown Land Grievance Report in 1844. In the evidence taken upon the subject, and appended to the Report of the Committee, the extreme hardship of our being called upon to pay this peculiarly high rate of quit-rent is so clearly demonstrated, that we consider it superfluous to adduce further arguments in support of this our representation. Not only have the claims for quit-rents been relinquished in other colonies upon easy terms; but Her Majesty's Government have repeatedly expressed an opinion unfavourable to this kind of revenue, and a desire that it should be abolished.

Under all these circumstances, we earnestly entreat your Excellency to reconsider the Regulations of 1846, with a view to the publication of a more equitable scheme of commutation; and that, at all events, the enforcement of payment of those quit-rents should be deferred until the colony shall be in a condition more ably to meet the demands of the Government.

Colonial Secretary's Office, Sydney,
3 January 1848.

Gentlemen,

I AM directed by his Excellency the Governor to acknowledge the receipt of a Memorial from certain holders of land chargeable with quit-rents, representing the hardship to which they will be subjected, if the Government should proceed immediately to enforce their collection; and urging his Excellency to reconsider the Regulations of 1846, with a view to their modification,—or, at all events, that he will postpone the enforcement of the payment of the same until the colony shall be in a condition more able to meet the demands of the Government. In reply, his Excellency the Governor instructs me to inform you, that Her Majesty's Government having already disapproved of the very liberal concessions which he authorized to the holders of lands chargeable with quit-rents by the Regulations of the 9th October 1846, his Excellency regrets that he does not feel at liberty, under the instructions

tions which he has in consequence thereof recently received, to entertain any proposition whatever for a relaxation of any part of those Regulations.

I have, &c.

Charles Cowper, Esq., and the other Gentlemen signing the Memorial.

(signed) *E. Deas Thomson.*

Enclosure 2, in No. 1.

MESSAGE, No. 29.

Chas. A. FitzRoy, Governor.

Encl. 2, in No. 1.

IN reply to the request of the Legislative Council that the Governor would forward the Address of the Council relative to the existing Quit-rent Regulations, his Excellency has to inform the Council that, in compliance with their desire, this Address shall be forwarded to Her Majesty's Secretary of State for the Colonies, to be laid at the foot of the Throne; but his Excellency deems it right to state, in order to prevent any misconception on the part of those persons who may be interested on the subject, that as Her Majesty's Government have disapproved of (although they have not advised Her Majesty to disallow) the very liberal concessions granted to the holders of land upon quit-rent by the Regulations of the 9th October 1846, his Excellency regrets that he can hold out no hope to those persons that the prayer of the Address will receive the Royal Assent.

Government House, Sydney,
16 June 1848.

— No. 2. —

(No. 7.)

COPY of a DESPATCH from Earl *Grey* to Governor Sir *C. A. FitzRoy.*

No. 2.
Earl Grey to Governor Sir C. A. FitzRoy, 12 January 1849.

Sir, Downing-street, 12 January 1849.

1. I HAVE had the honour of receiving your despatch, No. 139 of the 9th June last, accompanied by an Address from the Legislative Council, praying that Her Majesty will give direction that the claims of the Crown for quit-rents be absolutely remitted. This Address has been laid before the Queen, but I have not been able to advise Her Majesty to comply with its prayer.

2. I need hardly say, that Her Majesty's Government must always desire to meet the wishes of the Legislative Council of New South Wales, so far as this can be done with propriety; but in this instance there are objections to the concession prayed for, which do not seem to have been sufficiently considered. The territorial revenue of New South Wales is vested in the Crown for the benefit of Her Majesty's subjects, and especially of those who inhabit New South Wales; and Her Majesty's confidential servants cannot decline the duty of advising Her Majesty not to allow any portion of that revenue, which she thus holds as trustee for the public, to be sacrificed, and the funds derived from it, which are applicable to important objects of general interest, to be diminished by remitting the quit-rents due from private proprietors for the land they acquired on condition of making those payments, unless a valid claim to that remission on grounds of justice can be sustained. No part of the sums thus received, I need hardly observe, comes in any shape to Great Britain. The whole is expended, as it ought to be, exclusively for the benefit of New South Wales. It is appropriated to those objects which by common consent are deemed of the highest moment to the welfare of the colony. Regarding, then, the question as one between the holders of the lands subject to quit-rent, and the colonists at large, I have to observe, that no person has been permitted, since 1831, to obtain Crown lands except by paying for them a price in ready money, first, of not less than 5 *s.* an acre, and eventually of not less than 1 *l.* per acre. Considerably more than a million sterling has thus been received from settlers in the last 17 years. But these purchasers of land form a portion of the public; they are taxed along with others; and if these quit-rents were remitted, they, along with others must submit to the taxation which would be necessary to supply the deficiency. They might therefore very reasonably complain of wrong at the hands of Government, if those who before 1831 obtained their lands for nothing at all, on condition only that

that after the lapse of seven years they should make a small annual payment, were now to be released from their obligation, without any compensation whatever to the public for that indulgence.

3. It may be very true that quit-rents were not collected with any regularity or effect prior to 1840; but this must be ascribed in great measure to the unwillingness of those subject to them to pay what was due, and it is not alleged that the right to these rents was ever abandoned.

4. Again it is argued that the rate of 2 *d.* an acre imposed from the year 1826 was excessive. Of course it is not possible to settle beyond dispute what terms are too high or too low; and it is so natural that any parties who have payments to make should think that they ought to be less, that perhaps the only conclusive answer which can be offered in such cases is to point to the obligations which those parties have voluntarily contracted. There are some considerations, however, which may assist in forming a judgment on the present question.

5. The rate of 2 *d.* an acre was not imposed until the colony had reached an advanced stage of prosperity, and within five years of the period at which a minimum price of 5 *s.* an acre, payable in ready money, was established on all lands, at which price sales of great extent took place, affording the best proof of the value which land had acquired. Even at that period the quit-rent of 2 *d.* an acre would have been less than $3\frac{1}{2}$ per cent. on the minimum price of land, in a colony where the interest of money might at the same date be reckoned probably at little short of 10 per cent.; and if redeemed now at 10 years' purchase, which is the most unfavourable rate offered in any case to the settler, the land would be finally enfranchised at one-third of the lowest price for which it has ever been sold by the Government; but if compared with later prices, the reasons for doubting whether the quit-rent of 2 *d.* an acre can justly be deemed excessive become more apparent. The Government will not now sell any land for less than 1 *l.* per acre. Hence at 10 years' purchase, the very worst situated of those who receive grants of their lands can finally purchase for 20 pence that for which every one else must pay 20 shillings; or if he prefer leaving the capital unpaid, can continue to hold his land for so moderate an annual payment, that in a colony where the interest of money is necessarily high, it would require 120 years' purchase of his rent to amount to the established minimum price of Crown land.

6. I regret to observe that it is the opinion of the Legislative Council that the settlers who owe quit-rents in New South Wales have not had such good terms offered to them as settlers in Van Diemen's Land. The case, however, must necessarily rest on its own merits in each of the two colonies. Their circumstances are so dissimilar, and the principles on which the proposed commutation rests so different, that they hardly admit of fair comparison. It is very true that in Van Diemen's Land, on account of the various rates of quit-rent which existed, and the complication which would have attended a separate redemption of each, it was considered advisable to reduce the whole to a uniform rate. But I do not see a similar reason alleged for that course in New South Wales; and the only recommendation of the proposal would be that it would diminish the highest rate of quit-rent. I have already, however, explained the reasons why I cannot think that rate too high. And supposing it admitted that the rates of quit-rent in New South Wales are not in themselves excessive, it will, I apprehend, be found on examination that in all other respects the terms offered in this colony are much more instead of less favourable to the settler than the terms in Van Diemen's Land.

7. By the scheme adopted in the latter colony, every settler is obliged to pay up all arrears due from the date of the latest settlement of the question, and is also compelled, whether or not he may wish it, to redeem his future quit-rents by a payment of 10 years' purchase of their amount. There is no option, as in New South Wales, of declining to commute; there is no such entire dismissal of all past arrears; and every settler, without exception, is compelled to buy up his quit-rents at a greater number of years' purchase than is required of the persons most deeply indebted for quit-rents in New South Wales. If, therefore, regard be had to every one of the conditions except that of reducing the quit-rents to a uniform rate, which point has already been considered above, it appears not only that the terms held out to the settlers in Van Diemen's Land are not better than in New South Wales, but that the fact is eminently the reverse.

8. The Council observe, that if the settlers were granted the benefit of a reduction from their quit-rents in consideration of all the expense which they have saved

to Government by convicts in their service, an allowance which was once contemplated, and which has, in fact, been granted to one of the land companies, the aggregate amount of such savings to Government would be found greatly to exceed the whole amount of quit-rents due in New South Wales; on this point it is necessary briefly to refer to the origin of the allowance to which the Council allude. In a notice issued by the Home Government in 1824, for the information of persons about to emigrate, it was announced that a large bonus would be allowed them in the shape of a remission of quit-rent, if they would rid the Government of the maintenance of convicts by employing them on their own lands; but the local authorities quickly pointed out that this project was founded on a misconception, and they never adopted the plan in the actual regulations established on the spot; they explained that labour being the one thing which was more needed than any other, the settlers were eager competitors for the assignment to them of convicts; that it was a favour for which they vied with one another, and that hence it was quite unnecessary to pay them for accepting that which they viewed as a great advantage to obtain. It is true that the condition could not be removed from those contracts with existing land companies in which it had been already embodied; and it may be a fair question, as is suggested in one of your recent despatches, whether any settlers who can offer satisfactory proof that they received those notices from Downing-street, and were influenced by them in leaving England, ought not to have the benefit of the regulation which they were led to expect; but the same reasoning is obviously quite inapplicable to the inhabitants of the colony at large, and it is altogether unreasonable to contend, that certain parties having come under an obligation to make a particular payment in respect of lands granted to them, should afterwards be exempted from it, because they had been fortunate enough to obtain, in addition to those grants, a supply of convict labour, which was of still greater value to them.

9. I believe that I have now examined each of the arguments touched upon in the Address of Council; I most readily admit that it is very desirable that the settlers should be offered easy terms for redeeming those dues which they have been so unwilling to pay periodically. But I cannot help hoping, that when the conditions already granted to them are calmly reviewed, they will perceive how truly large are the concessions which they enjoy. No stringent measures have been adopted against those who have so long remained in default; on the contrary, a settler who has at any period made even so much as one of the annual payments which formed the condition of his grant, will have the full benefit of that payment towards the perpetual redemption of his quit-rents; some, therefore, might only have a very few years' purchase of the rent to pay in order to effect its final extinction; and even should a settler never once during his whole occupation have paid the rent which he was liable to pay, the utmost required of him, in this most unfavourable case, is 10 years' purchase-money in order to free him from all further liability. I have already shown, in an earlier part of this despatch, how much more cheaply those who owe the highest rate of quit-rents will thus obtain their lands, than the persons who have purchased lands at the lowest price which ever existed in the colony; and I may add, that in the case of the large quantity of lands which were granted upon a quit-rent of 2*s.* per 100 acres, the holders of these properties, selected in the earlier days of the colony, will enfranchise them at a payment of exactly one-hundredth part of the lowest price which is now accepted for any Crown land.

10. The subject, as I observed at the outset, is one in which Her Majesty's Government can have no other concern than that which arises out of a sense of duty towards the community of New South Wales; all later settlers having been compelled to pay a substantial price for their lands, the earlier settlers were free from that necessity, but were liable instead to a much smaller payment, of which the proceeds are applicable to the same salutary objects as the remainder of the land revenue. With every wish to make any concession which is recommended on high authority from New South Wales, I regret that I do not feel that I could, consistently with my duty, advise Her Majesty to grant to a particular class of proprietors, at the expense of the community at large, a benefit to which, so far as the preceeding examination shows, they are unable to establish any claim on the score of justice.

I have, &c.
(signed) *Grey.*

NEW SOUTH WALES.

COPY of the DESPATCH of the Governor of *New South Wales* to the Secretary of State for the Colonies, together with the MEMORIAL of the LEGISLATIVE COUNCIL of the Colony, on the subject of QUIT-RENTS, and the REPLY of the Secretary of State thereto in January last.

(*Mr. Scott.*)

Ordered, by The House of Commons, *to be Printed,*
5 *June* 1849.

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Under 1 *oz.*

PAPERS

RELATIVE TO

CROWN LANDS

IN THE

AUSTRALIAN COLONIES.

Part I.

NEW SOUTH WALES.

(*In continuation of Papers presented August* 1848.

Presented to both Houses of Parliament by Command of Her Majesty,
14th AUGUST 1850.

LONDON:
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SCHEDULE.

NEW SOUTH WALES.

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PAPERS

RELATIVE TO

CROWN LANDS IN THE AUSTRALIAN COLONIES.

NEW SOUTH WALES.

NEW SOUTH WALES.
No. 1.

(No. 88.) No. 1.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, April 6, 1848.

(Received August 7, 1848.)

MY LORD,

BY my Despatch, No. 7, of the 8th January last, I acquainted your Lordship with the steps which had been taken for defining the boundary line between this colony and that of South Australia, and I now have the honour to inform your Lordship that the Government of South Australia has since pointed out an error that has been made in the Proclamation issued by Lieut.-Governor Robe, by which the boundary is stated to commence 1¼ miles east from the Glenelg, instead of west. This, however, has now been corrected, as your Lordship will see by the accompanying copy of the South Australian Government Gazette.

No. 52, Dec. 23, 1847.

I regret, at the same time, to have to inform your Lordship that, independently of this error, the general description given in the schedule to the Proclamation is found in many points to differ very materially from that furnished by Mr. Surveyor Wade, who was employed by this Government in the survey in question. How this occurred is at present unknown to me; but I have requested the Superintendent of Port Phillip to communicate with the Lieut.-Governor of South Australia, for the purpose of endeavouring to effect an adjustment of the matter, the result of which I shall have the honour of making known to your Lordship.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Enclosure in No. 1.

Encl. in No. 1.

EXTRACT from the SOUTH AUSTRALIAN GOVERNMENT GAZETTE, dated Adelaide, December 23, 1847.

PROCLAMATION.—By his Excellency Frederick Holt Robe, Esq., Lieut.-Colonel in the Army. Lieut.-Governor of Her Majesty's Province of South Australia, and Vice-Admiral of the same, &c.

FREDERICK H. ROBE. (L.S.)

WHEREAS by an Act of the Imperial Parliament, passed in the fourth and fifth years of the reign of His late Majesty King William the Fourth, intituled, "An Act to empower His Majesty to erect South Australia into a British province or provinces, and to provide for the colonization and government thereof," His Majesty was empowered with the advice of his Privy Council, to erect and establish within that part of Australia which lies between the meridians of the one hundred and thirty-second and one hundred and forty-first degrees of east longitude, and between the Southern Ocean, and the twenty-sixth degree of south latitude, together with the islands adjacent thereto, and the bays and gulfs thereof, one or more provinces, and to fix the respective boundaries of such provinces:

And whereas, His said late Majesty, on or about the nineteenth day of February, one thousand eight hundred and thirty-six, by Letters Patent under the great seal of Great Britain, with the advice of his Privy Council, and in pursuance of the powers in that behalf vested in His said Majesty by the said recited Act of Parliament, did erect and establish one province, to be called the "Province of South Australia," and did thereby fix the boundaries of the same province in the manner following (that is to say):—On the north, the twenty-sixth degree of south latitude; on the south, the Southern Ocean; on the west, the one-hundred and thirty-

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second degree of east longitude; and on the east, the one hundred and forty-first degree of east longitude; including therein all and every the bays and gulfs thereof, together with the island called Kangaroo Island, and all and every other islands adjacent to the said last mentioned island, or any part of the main land of the said province:

And whereas, from the progress of settlement on the eastern frontier of the said province, and on the borders of the territory of New South Wales, it has become necessary to mark out and ascertain the one hundred and forty-first degree of east longitude, so fixed as the boundary of South Australia on the east as aforesaid; and for this purpose, by an arrangement previously entered into, the Government of New South Wales has, with the consent and concurrence of the Government of South Australia, caused the position of the one hundred and forty-first meridan of longitude, east from Greenwich, to be correctly ascertained at a spot on the sea coast near the mouth of the River Glenelg; and, therefrom, the said meridian to be surveyed northward as far as the thirty-sixth parallel of south latitude, by Henry Wade, Esq., surveyor, and to be marked upon the ground by a double row of blazing upon the adjacent trees, and by mounds of earth at intervals of one mile where no trees exist:

And whereas it is expedient that the said survey should be authoritatively adopted and made known:

Now, therefore, by virtue and in pursuance of the power and authority to me confided, I, the Lieut.-Governor aforesaid, in name and on behalf of Her Most Gracious Majesty, do hereby notify and proclaim, that the line so marked as aforesaid, and particularly described in the schedule hereto annexed, and delineated on the public maps deposited at the Survey Office, at Adelaide, as the meridian of the one hundred and forty-first degree of east longitude, is and shall be deemed and construed to be the eastern boundary of the Province of South Australia, to all intents and purposes; and all and singular Her Majesty's officers, ministers, and subjects in the said province, and all others whom it may concern, are required to take due notice hereof accordingly.

Given under my hand and the public seal of the said province, at Adelaide, this eleventh day of December, one thousand eight hundred and forty-seven, in the eleventh year of Her Majesty's reign.

By His Excellency's command.

A. M. MUNDY,
Colonial Secretary.

God save the Queen.

SCHEDULE ABOVE REFERRED TO.

(*Extracted from the Surveyor's Report.*)

THE boundary line between New South Wales and South Australia commences at a point about 1¼ miles west from the mouth of the River Glenelg, where the 141st meridian of east longitude cuts the sea coast, in latitude 38° 4′ 2″ south, and runs due north along that meridian. The whole distance at present surveyed is about 124 miles, north from the sea coast, and the line is marked by a double row of blazed trees, and mounds of stone and earth at intervals of a mile; where no trees exist, the mounds are placed within sight of one another.

At about half a mile due north from the starting point, a pyramid of stones is erected with a post in the centre, marking the line of boundary, which afterwards crosses the Glenelg at about 2 miles and 47 chains from the sea coast, at a point where the banks of the river are rugged and precipitous. The country on the left bank of the river is a poor stringy bark scrub, intersected by heaths and swamps, of which about half a square mile—included within a bend of the river—is within the province of South Australia. At about 4¼ miles from the sea coast, the boundary re-crosses the river, and passes through a thick stringy bark forest, for about 76 chains, where, in latitude 37° 59′ 10″ south, it crosses, nearly at right angles, the road from Mr. Neil Black's head station to Nolan's (the country at this spot is more open and undulating); thence it passes through a very dense stringy bark scrub, with much underwood, for about 4¾ miles; thence for 4 miles through a rather more open forest to the east road from Mount Gambier to Glenelg, leaving Nolan's about 7 miles to the east, and Mount Gambier 10 or 12 miles to the west—crossing the road in latitude 37° 51′ 39″ south: thence it continues through forest land and sandy soil, to a swamp in latitude 37° 48′ 56″ south, about one mile to the east of the out station called the Green Water Hole, and 2 miles to the south-east of Mr. Curran's station.

From latitude 37° 48′ 56″ the boundary line passes through several swamps surrounded by a flat stringy bark forest for about 2¼ miles; thence for about 1½ miles through a grassy and more open forest of red gum, principally, and honeysuckle (being the western part of Mr. Beilby's run), to a swamp in latitude 37° 45′ 33″ S.; thence through the same description of country for about 1 mile and 24 chains, to the base of a limestone ridge, over which it continues for 16 chains, to the commencement of a swamp extending N. W. and S. E., known as the large Tea Tree swamp, 1 mile 12 chains in breadth, where the line crosses it; thence for 3 miles 13 chains through a very flat and open red gum forest interspersed with swamps, to the road between Bate's abandoned head station and Munro's hut on the old Mount Gambier road, at a point three-quarters of a mile to the westward of the former place, and two miles to the eastward of the latter; thence about 69 chains through the same description of open forest land (very wet and soft in the winter season), crossing another road from the same abandoned station to Mr. Bate's present head station; thence passing for 1 mile 13 chains through a more thickly timbered forest it crosses the old Mount Gambier road; thence, at a distance of 11

chains, it crosses a track to Mr. Bates present head station (Kaladbro), which is about 1 mile to the westward, in lat. 37° 38′ 17″. From this track the line passes through a thick forest of honeysuckle and gum, for about 1 mile and 54 chains, to the road from Mr. Mackinnon's head station to Mr. Bate's abandoned station; thence for about 2 miles and 18 chains across Turkey Heath; thence for 1 mile 41 chains through a flat of gum forest to the road (in lat. 37° 33′ 43″), from Mr. Mackinnon's woolshed station to a water hole called Nangwarre, 70 chains to the westward of the latter. From lat. 37° 33′ 43″ the line passes through swamps surrounded by a stunted stringy bark forest, or white sand, for about 3 miles 18 chains; thence for 1 mile 38 chains through a flat open forest to the main road from Melbourne to Adelaide, 20 chains to the westward of an out-station of Mr. Mackinnon's called Midcago, and 2 chains to the east of an old station at a swamp full of trees, and about 1 mile to the westward of Lake Mundy. From the Adelaide road the line passes through a sandy stringy bark forest, intersected by swamps and heaths for about 4 miles 59 chains, to a track, in latitude 37° 25′ 20,″ leading to Mr. Ewen Cameron's station, which lies 1 mile to the eastward of it. From latitude 37° 25′ 20″ the line passes through a heath, and barren stringy forest for 10 miles; thence up a slope for 6 chains into a country of greater elevation than the last 50 miles, though still flat and very soft in winter; 1 mile 5 chains further on, passing through open red gum forest, intermixed with honeysuckle, wattle, and the oak, latitude 37° 16′ 4″ south, the station of Messrs. Smith and McNichol bearing north-north-west, distant about 20 chains. Continuing on through a similar description of country, but rather thicker with wattle and honeysuckle, for 2 miles 42 chains the line passes over a low stringy bark ridge, an out-station belonging to Mr. W. Wallace being about 50 chains west-south-west. Crossing another low ridge the line again enters the Wattle Rises, and at the distance of 3 miles 35 chains passes another out-station of Mr. Wallace's, bearing about west, distant 30 chains; 69 chains further on, the line crosses the road from Mr. Wallace's station to his head station; then, after passing through the Wattle Rises, enters a flat, open, red gum forest, very wet and soft. Four miles 49 chains further on, the line crosses Musquito Creek, leaving an out-station of Mr. Wallace's about 1 mile to the westward, and his home station about 4 miles to the eastward. Eleven chains from the creek it crosses the road from Mr. Robertson's station to Mr. Wallace's; thence 1 mile 79 chains through an open forest of red gum intersected with swamps, it crosses the road from Messrs. Omerod's and Oliver's stations that joins Mr. Wallace's road on Musquito Creek, 1 mile to the eastward of the line. The line continues on through the same description of country for 3 miles 74 chains, and then crosses a small creek, Mr. John Dickson's station being about half a mile to the eastward. From the creek at Dickson's the line again passes through a similar description of open forest land (but very boggy in winter) for 1 mile 73 chains, here it crosses a road leading to Adelaide, past Mr. Oliver's station; thence through the same kind of boggy country for 2 miles 55 chains, the main north road between Adelaide and Melbourne. The timber, hitherto principally red gum intermixed occasionally with she oak and honeysuckle, here begins to change, and appears to be box and a kind of swamp oak. Three miles 47 chains from this road the line passes through an open box forest, an out-station of Mr. Edward Townsend's, bearing north-west 87°, distant 21 chains; thence the line passes through the same description of country intersected by swamps, crossing at 76 chains the road from Mr. Townsend's home station to the Glenelg; thence at 1 mile 24 chains it crosses a road leading from Mr. Townsend's to Mr. Thomas Gibson's station; thence at 1 mile 31 chains it crosses the road leading from Mr. Hugh McLeod's to Mr. Robert McDonald's home station; thence 21 chains to a road from Mr. H. McLeod's home station to his out-station at Lake Cadnite; thence 1 mile 74 chains through the same description of open box forest it crosses a road from Mr. Henry Jones' home station to his out-station; thence 4 miles through a similar country with occasionally some heath, it passes about 1 mile to the eastward of the centre of the eastern shore of Lake Cadnite; thence 3 miles 63 chains to the first belt of marlee scrub. This belt of scrub (13 miles 53 chains in breadth, where crossed by the line) consists of irregular sandy ridges covered with stunted stringy bark and grass-tree, interspersed with small heaths destitute of trees, and some few gum bottoms, in which there is generally water, and a little very poor grass. Having passed over the scrub the line passes through an open box forest; the surface of the ground very uneven, and generally described by the settlers as "Dead Men's Graves," to which it bears some resemblance, except that the hollows between are full of water. At 8 miles from the north side of the scrub the line crosses the track from Mr. A. Macfarlane's hut to the station of Messrs. McLeod and Scott; thence 1 mile 13 chains over a slight elevation, covered with she oak, to the base of a low sandy ridge, on which, mixed with stringy bark, the cypress is first met with; thence 15 chains over a sandy ridge; thence for 3 miles 27 chains over a flat open box forest to the edge of a marlee scrub 12 feet high, and very dense; through this scrub the line is marked 1 mile and 13 chains, at which point the survey is for the present closed.

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No. 2.

(No. 169.) No. 2.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney,
July 29, 1848.

(Received December 13, 1848.)

(Answered March 12, 1849, No. 40, p. 78.)

My Lord,

I do myself the honour to bring under your Lordship's notice the subject of certain pecuniary claims recently made upon the Colonial Government, which if sanctioned, and extended to all other similar cases will, I believe, form a most extensive demand upon the Colonial Treasury, in consequence of which I have hesitated to act without your Lordship's instructions.

In a printed or lithographed document which issued from your Lordship's department, dated "Downing-street, November, 1824," and purporting to be for the information of persons proceeding to New South Wales and Van Diemen's Land as settlers, certain rules were laid down for granting lands, and amongst others, it contained the following clause:—

"15. In the redemption of his quit-rent, the grantee will have credit for "one-fifth part of the sums which he may have saved to Her Majesty's Govern- "ment by the employment and maintenance of convicts, and for the purpose "of making this allowance, it will be calculated that the Government has "saved 16*l.* for each convict employed by the grantee, and wholly maintained "at his expense on his land, for one whole year."

These regulations were apparently delivered to applicants requiring information on the subject, and otherwise made known; and a copy of the document would seem to have been transmitted to this Government; but your Lordship will perceive that in the republication in this colony by notice, dated 18th May, 1825, the claim in question is entirely omitted; whether by the authority of His Majesty's Government or that of the Governor of the colony, I am not aware; most probably the latter, as being inapplicable to the then state of the colony.

Page 5.

I may, however, perhaps here observe, that the quit-rent charged on grants of land previously to the regulations of 18th May, 1825, was, except in few instances, only 2*s.* per hundred acres per annum, but under these regulations it was increased to 16*s.* 8*d.* A similar paper appears also to have issued from your Lordship's department, of date April, 1826, and April, 1827, containing the same clause; but the colonial regulations of date 5th September, 1826.

Page 6.

founded on the document of 1826 are, as in the former instance, quite silent with regard to the clause in question. This seems to have been the deliberate act of this Government, subsequently, however, sanctioned by the Earl Bathurst's Despatch No. 29, of 1828, although the same was never notified in this colony, being no doubt considered unnecessary, seeing that the Colonial Government never made public, or in any way adopted that particular clause.

Notwithstanding Earl Bathurst's Despatch, however, it appears that the terms of the documents, dated April, 1826, and 1827, were still considered to be those on which settlers would obtain land; and copies were accordingly given to persons desirous of emigrating or otherwise, until the system of making grants of land was superseded by that of purchases in the year 1831.

Your Lordship is aware that during the periods referred to, namely, 1824 to 1831, the emigration to this colony was very extensive and by persons of capital, who were entitled to obtain grants of land, many to the largest extent, 2,560 acres; but in the authority for the same it was by the Colonial Government expressly mentioned that the lands were to be held under the Regulations (Colonial) before referred to, of 5th September, 1826; and further, in the letter giving actual possession of the land and the deeds confirming the same thereunder, the only mode of redeeming the quit rents was stated to be by payment of 20 years of its amount, at the rate of 16s. 8d. per hundred acres per annum.

During the same period also the system of assigning convicts to trustees of land was in full operation, and in most cases each obtained several, and in many instances a large number, thus effecting a saving to the Government of consider-

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able sums, according to the scale laid down by the regulations contained in the documents now brought under notice.

No advantage has as yet been taken of the benefit held out by the clause referred to; indeed until very recently, no application has been made upon the subject, but as a few are now being brought forward, and others will doubtless follow, I am desirous of obtaining your Lordship's instructions for my guidance.

In order to bring under your Lordship's notice the nature of the claims made, I would instance that of Mr. William Lawson, as the representative of Mr. S. P. Webber, who emigrated from England, previously obtaining from the Colonial Office a copy of the regulations of April, 1826, and on his arrival here received a grant of 2,560 acres of land, subject to an annual quit-rent of 21*l.* 6*s.* 8*d.*, which he disposed of to Mr. Lawson, who, in 1845, paid up, on the demand of the Colonial Treasurer, the quit-rent then due for 13 years, namely, 277*l.* 6*s.* 8*d.*, and his application is for the refunding of that amount and a remission of all future claims, in consideration of a sufficient number of convicts having been maintained on the land, so as to effect a saving to the Government of at least the amount paid and claimable according to the scale laid down.

The subject of the redemption of quit-rents on the ground of the maintenance of convicts, under the regulations referred to, was brought before the Executive Council, and it was proposed to adopt the following general rule: namely, any person who left Great Britain between the month of November, 1824, the date of the first paper of regulations referred to, and the 2nd of April, 1828, when the suspension of the redemption clause was authorized by Earl Bathurst, and obtained a grant of land on his arrival, and who can satisfy this Government that he was made acquainted with the said regulations before his emigration, and in fact that he emigrated on the faith of the conditions they contained, should be entitled to the benefit of them, upon showing by official returns that he has effected the required saving according to the scale laid down.

It appears by the returns obtained that 130 convicts were assigned for the land belonging to Mr. Lawson, and that on an average each man remained in the same service five years, one-fifth of the amount thereby expended in their maintenance would be a saving to the Government of a sum very considerably exceeding the amount required for redeeming the quit-rent on the land, at 20 years' purchase; and Mr. Lawson would, therefore, if approved, be entitled to a return of the money already paid, and a discharge from all similar demands.

Some applications have been simply for a remission of arrears due, and of future payments; but as the principle in either case is the same, a decision in the one more particularly brought forward would be a guide for any others.

The number of grants made under the regulations in question is very great; and in the event of all the proprietors prefering similar claims, the amount to be refunded would, I have no doubt, be several thousands of pounds. Before sanctioning any payment, I shall, however, await your Lordship's directions.

I have, &c.

The Right Hon. Earl Grey. (Signed) CHARLES FITZROY.
&c. &c. &c.

Enclosure 1 in No 2. Encl. 1 in No. 2.

GOVERNMENT and GENERAL ORDER.

Colonial Secretary's Office, May 18, 1825.

HIS Excellency the Governor having received from His Majesty's Principal Secretary of State for the Colonies, by a late opportunity, the following Document, a copy of which is furnished to all persons proceeding to New South Wales and Van Diemen's Land as settlers, is pleased to give publicity to the same.

Document.

For the information of persons proceeding to New South Wales and Van Diemen's Land as settlers, it has been deemed expedient to prepare the following summary of the rules which His Majesty's Government have thought it fit to lay down for regulating the grants of land in that colony.

1. A division of the whole territory into counties, hundreds, and parishes, is in progress; when that division shall be completed, each parish will comprise an area of about 25 miles. A valuation will be made of the lands throughout the colony, and an average price will be struck for each parish.

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2. All the lands in the colony not hitherto granted, and not appropriated for public purposes, will be put up to sale at the average price thus fixed.

3. All persons proposing to purchase lands, must transmit a written application to the Governor, in a certain prescribed form, which will be delivered at the Surveyor-General's Office to all parties applying, on payment of a fee of two shillings and sixpence.

4. All correspondence with the Local Government respecting grants of land, must take place through the same office.

5. On payment of the money, a grant will be made in fee simple to the purchaser, at the nominal quit-rent of a pepper corn.

6. The largest quantity of land which will be sold to any individual is about 9,600 acres. The lands will generally be put up in lots of one square mile, or about 640 acres. Persons wishing to make more extensive purchases must apply to the Secretary of State, in writing, with full explanations of their objects and means.

7. Lands may also be obtained without purchase, but upon different conditions.

8. Persons desirous to become grantees, without purchase, will make their application to the Governor, in a prescribed form; copies of which are to be obtained at the Surveyor-General's Office, on payment of two shillings and sixpence.

9. The largest grant that will be made, without purchase, is 2,500 acres; the smallest, 320 acres.

10. No grant is to be made to any person, without purchase, unless the Governor is satisfied that the grantee has both the power and intention of expending in the cultivation of the land, a capital equal to half the estimated value of it.

11. A quit-rent of 5 per cent. per annum upon the estimated value will be fixed upon the land granted without purchase.

12. The quit-rent will be redeemable within the first twenty-five years next following the grant, on payment of a sum equal to twenty times the annual amount of it.

10. Until the expiration of the first seven years next succeeding each grant without purchase, no quit-rent will become due upon the lands comprised in it.

14. Every grantee without purchase must, at the expiration of the before-mentioned term of seven years, prove to the satisfaction of the Surveyor-General that he has expended in the cultivation and improvement of his land a capital equal to half its value, as that value was estimated at the time of his grant. On failure of such proof the land will be forfeited to the Crown.

15. No additional grant of land will be made to any person who has not proved, as last mentioned, the necessary expenditure of capital on the lands already granted to him.

16. Persons receiving a second grant of land without purchase will become liable to pay a quit-rent upon the lands comprised in such second grant immediately from the date of it.

17. Persons desirous to receive grants of land without purchase, on terms different from those above stated, must lay before the Secretary of State a full explanation in writing of the circumstances which they may conceive to exempt them from the fair operation of these rules.

With reference to the above, his Excellency the Governor must decline receiving, until further notice, any more applications for the purchase of Crown lands.

By his Excellency's command,

(Signed) F. GOULBURN, Colonial Secretary.

Encl. 2 in No. 2.

Enclosure 2 in No. 2.

GOVERNMENT ORDER.—REGULATIONS for the GRANTING and SALE of LAND.

Colonial Secretary's Office, September 5, 1826.

HIS Excellency the Governor is pleased to notify that the following regulations in furtherance of His Majesty's Instructions for the disposal of land have been established until His Majesty's pleasure shall be known.

1. Persons desirous of obtaining land will address themselves to the Colonial Secretary, who will furnish them with the established form of application. When the Governor shall be satisfied of the character and respectability of the applicant, the Colonial Secretary will be instructed to furnish him with a letter to the Land Board, in order that the amount of capital which he can command may be ascertained. Stock of every description, implements of husbandry, and other articles which may be applicable to agricultural purposes, are to be considered as capital, as likewise any half-pay or pension which the applicant may receive from Government.

2. The Land Board will carefully investigate the particulars of the capital which the respective applicants are stated to possess; it being of importance that settlers should not receive a greater extent of land than they are capable of improving, and that grants should not be made to persons who are desirous only of disposing of them. The regulations fixing the period within which persons receiving grants without purchase will not be allowed to alienate the lands (without subjecting themselves to a forfeiture of the grants) will be hereafter notified.

3. When the Governor is satisfied as to the amount of capital possessed by the applicant, the latter will be furnished by the Colonial Secretary with a letter to the Surveyor-General,

who will afford him every necessary information, and will give him a written authority (for which he will pay a fee of 2*s*. 6*d*.) to proceed in search of land.

4. When he has made his selection, he will apprise the Surveyor-General by letter, who will point out in his Report (to be transmitted twice a month for the Governor's information) the situation, &c., of such lands as have been selected. If approved by his Excellency, the Colonial Secretary will give the applicant a written authority to take possession of the land (in which the conditions will be specified) until His Majesty's pleasure be known or the grant be made out.

5. The following boundaries have been fixed, within which persons who may be allowed to purchase or to receive grants on paying an annual quit-rent will be permitted to make their selections.

The northern boundary to be from Cape Hawke in a line due west to Wellington Valley.

The western boundary to be the River Macquarie from Wellington Valley to the 33rd parallel of latitude; from thence the line to be extended to the 148½ degree of east longitude, and from that point directly south, until it reaches the River Lachlan; thence due east to Campbell's River, pursuing the line of that river to the southward, and so on to the latitude of Bateman Bay, which forms the southern boundary.

6. The Government will reserve for its own use 10,000 acres in the immediate neighbourhood of the settlement of Bathurst, which the Surveyor-General will mark out without loss of time, so that settlers may not be impeded in selecting their land.

7. Land granted without purchase to be held in a free and common soccage, the grantee paying a quit-rent of 5 per cent. per annum on the value to be fixed by the Commissioners.

8. The payment of the quit-rent not to commence until the end of seven years after the grantee shall have been authorized to settle on the land. Within that period, however, the grantee must expend, in improvements on the land so granted, a sum equal to one-fourth of the value estimated by the Commissioners, under the penalty of forfeiting the grant.

9. The quit-rent to be redeemable at the option of the grantee on payment into the Colonial Treasury of a sum equal to 20 years' purchase, provided such payment be made within 20 years after the date and execution of the grant.

10. Lands to be granted in square miles, in the proportion of one square mile, or 640 acres, for every 500*l*. sterling of capital which the applicant can immediately command to the extent of four square miles, or 2,560 acres, which is the utmost that can be granted without purchase. The Crown reserves to itself the right of making and constructing such roads and bridges as may be necessary for public purposes, on lands to be granted as above, and also to such indigenous timber, stone, and other materials, the produce of the land, as may be required for making and keeping the said roads and bridges in repair.

11. The land selected by individuals who have obtained leave to purchase will be valued by the Commissioners with as little delay as possible, and will be put up to sale for one month (by proclamation) as directed by His Majesty's instructions, and will not be sold at a lower rate than the value so fixed.

12. Sealed tenders for the purchase of the lands, advertised as above, to be addressed under cover to the Colonial Secretary, and marked "Tender for Land." At the end of a month from the date of proclamation, the tenders will be opened in the presence of such persons as the Governor may appoint, when the land will be disposed of, as directed by His Majesty's instructions, to the person making the highest tender, if approved by the Governor. Lands purchased will be held in free and common soccage, paying a yearly quit-rent to the Crown of one peppercorn.

13. The purchaser will be required to deposit 10 per cent. of the purchase money previously to his receiving possession of the land, and the same will be confirmed by the necessary instrument when the present arrangement shall be approved by His Majesty.

14. No person will be permitted by any contract or succession of contracts to become the purchaser of more than 9,600 acres, including the land he may have previously purchased, unless duly authorized by a special order from the principal Secretary of State for the Colonies.

15. The personal residence of individuals on the land which they may obtain by grant or purchase, or the employment on the spot of a freeman as agent or manager, of approved character and respectability, will be made an indispensable condition.

16. Persons desirous of obtaining "reserves of land" or "grants in extension," will make application in the prescribed form through the Colonial Secretary; and if no objection exists, the Governor will authorize them to occupy the land they make choice of until His Majesty's pleasure be known, on their engaging to pay rent, in the mean time, at the rate of 1*l*. sterling per annum for every 100 acres.

By His Excellency's Command,

(Signed) ALEXANDER M'LEARY.

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No. 3.

(No. 221.)

No. 3.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, Oct. 11, 1848.

(Received March 20, 1849.)

(Answered August 16, 1849, No. 134, page 83.)

My Lord,

1. Adverting to that part of your Lordship's Despatch* (No. 24) of the 11th February, 1848, which relates to a provision being made to secure to the aborigines the free use of unimproved Crown lands, for the purposes of hunting, and in other ways seeking their subsistence as heretofore, notwithstanding the occupancy of those lands under leasehold tenure, under the provisions of Her Majesty's Order in Council, of 9th March, 1847, I have the honour to report to your Lordship that, having brought the same under the consideration of my Executive Council, an instruction was, under their advice, given to the Crown law officers of this colony to insert in the forms of leases for the occupation of lands beyond the settled districts a provision securing to the aborigines the right adverted to by your Lordship.

* Page 83.

2. In consequence of this instruction I received from the Attorney-General a letter conveying the opinion of himself and the Solicitor-General, that no condition securing to the aborigines the privilege of free access to lands remaining in an unimproved state could legally be introduced into the leases of Crown lands proposed to be granted under the provisions of the Act of Parliament 9 & 10 Vict., cap. 104; but suggesting that Her Majesty might, by some future Order in Council, authorize the insertion of such a condition in the leases. Having laid this opinion also before my Executive Council, they have recommended that, as a condition to the effect proposed cannot legally be introduced into the leases by the local Government, I should request your Lordship to obtain the requisite authority for its insertion by a further Order of Her Majesty in Council, under the 6th section of the Act 9 & 10 Vict., cap. 104.

Minutes Nos. 23 and 48. July 18 and Aug. 22, 1848.

3. For your Lordship's further information on this subject, I have the honour to inclose a transcript of the proceedings of the Executive Council having reference to the same, and containing in the Appendix thereto a copy of the opinion of the Crown law officers above adverted to.

4. Your Lordship will perceive, by the Minute of the 18th July, 1848, that even before the receipt of your Lordship's instructions, the subject had occupied the attention of the Executive Council, in consequence of a representation from Commissioner Mayne, of the Wellington District. Concurring as I do entirely in the necessity for a provision being made in the leases of the nature in question, I trust that your Lordship will see sufficient reason to apply to Her Majesty in Council for the necessary Order for the purpose.

5. I avail myself of this opportunity of further suggesting to your Lordship the expediency of introducing into any new Order in Council a declaration in the clearest and most explicit manner, according to the principle laid down in your Lordship's Despatch* of the 11th of February last, that the lessees of Crown lands under chap. II. and III. of the former Order will acquire no right over such lands as may remain in an unimproved state but that of exclusive pasturage; so that the public may not be precluded from access to them for such purposes as that of searching for minerals. Unless such a power be retained, it is evident that the examination of lands, with a view to their purchase, or for the purpose of obtaining the right of mining, could not be legally made, and the reservations, therefore, contained in the Order in Council for the public benefit would to a great extent be rendered unavailing.

* Page 83.

6. It is only further necessary that I should inform your Lordship that the subject of reservations generally for the benefit of the aborigines will, in compliance with the instruction contained in the Despatch above referred to, receive the earnest attention of myself and the Executive Council.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Enclosure in No. 3.

NEW SOUTH WALES.

Encl. in No. 3.

New South Wales.

Proceedings of the Executive Council relative to the Measures to be taken to secure to the Aborigines the right of Wandering over Unimproved Crown Lands in search of Food, &c., notwithstanding the Leasehold Tenure under which such Lands may be placed by the Provisions of Her Majesty's Order in Council of 9th March, 1847.

Extract from Minute, No. 48/23, *dated* 18*th July,* 1848.

Members present:—

His Excellent the Governor.
The Hon. the Commander of the Forces.
The Hon. the Colonial Secretary.
The Hon. the Attorney General.
The Hon. the Colonial Treasurer.

June 1, 1848.
Letters 1 and 2 appended.

His Excellency the Governor lays before the Council two letters from Mr. Commissioner Mayne; the one proposing a reserve of one square mile for the use of the aborigines in a spot on the Barwin, where he has found an extensive permanent fishery constructed by them; and the other suggesting that a clause should be inserted in leases of runs, which will secure to the aborigines such free access to land, trees, and water as will enable them to procure the animals, birds, fish, &c., on which they subsist.

The Council advise that one square mile in the locality described by Mr. Mayne, and including the fishery discovered by him, should be reserved "for the use of the aboriginal inhabitants of the country," under the 9th section of chap. 2 of the Order in Council; and that the requisite instruction to this effect should be given to the Deputy Surveyor-General.

The Council further advise that Mr. Mayne's second letter should be referred to the Crown law officers with a request that they will insert in the forms of leases which they have been instructed to prepare such conditions as will secure to the aborigines the privilege of free access to lands remaining in an unimproved state.

Extract from Minute, No. 48/28, *dated* 22*nd August,* 1848.

Members present as above.

Despatch Feb. 11, 1848. No. 24.

His Excellency the Governor lays before the Council a Despatch from Earl Grey respecting the further measures to be taken by the local government for the improvement of the condition of the aboriginal inhabitants of the colony, and for their effective protection.

Amongst other measures to be taken for giving effect to the instructions contained in this Despatch, the Council advise an extract containing so much of the Despatch as relates to a provision being made to secure to the aborigines the free use of unimproved Crown lands for the purposes of hunting, and in other ways seeking their subsistence as heretofore, notwithstanding the occupancy of those lands under leasehold tenure, be sent to the Crown law officers with reference to the instruction which was some short time since given to them under the Council's advice, to insert in the forms of leases which they are preparing a provision securing to the aborigines the right adverted to by Earl Grey.

Extract from Minute, No 48/30, *dated* 5*th September,* 1848.

Members present as above.

August 28, 1848.
Appended.

With reference to the proceedings of the 18th July and 22nd August last, his Excellency the Governor lays before the Council a letter from the Attorney-General, stating the concurrent opinion of himself and the Solicitor-General, that as no such condition is included amongst those specified in Her Majesty's Order in Council of the 9th March 1847, the local government cannot legally introduce into leases granted under that order a provision securing to the aborigines the privilege of free access to lands remaining in an unimproved state, so as to enable them to procure the animals, birds, and fish, on which they subsist.

The Council thereupon recommend that, with reference to the Despatch of the Right Hon. the Secretary of State of the 11th February, 1848, No. 24, his Excellency the Governor should communicate to his Lordship the intention of this government, that free access to the unimproved portions of all Crown lands let under the Order in Council of the 9th March, 1847, should have been secured to the aborigines by a condition to that effect in the leases; that his Excellency should at the same time forward to Earl Grey a copy of the opinion now before them, that such a condition cannot legally be introduced into the leases by the local government, and that his Excellency should request that the requisite authority for its insertion may be obtained by a further Order of Her Majesty in Council, under the 6th section of the Act 9 and 10 Vict., cap. 104.

Francis L. S. Merewether, Clerk of the Council.

NEW SOUTH WALES.

Sub-Encl. 1 to Encl. in No. 3.

Sub-Enclosure 1 to Enclosure in No. 3.

Commissioner of Crown Lands Office,
Wellington, June 1, 1850.

Sir

I do myself the honour to report for the information of his Excellency the Governor, that when recently on the Barwan, I visited a very extensive permanent fishery, constructed by the aborigines. It is in that part of the Barwan on which the lower part of Mr. Henry Cox's run is situated.

In a broad but shallow part of the head of the river, where there are numerous rocks, the aborigines have formed several enclosures, or pens, if I may use that word, into which the fish are carried, or as it were, decoyed by the current, and there retained. To form these must have been a work of no trifling labour, and no slight degree of ingenuity and skill must have been exercised in their construction, as I was informed by men who had passed several years in the vicinity, that not even the heaviest floods displace the stones forming these enclosures.

The aborigines catch immense quantities of fish in these, and are enabled, also, to destroy great numbers of fishing birds of various kinds that are attracted to them by their prey thus imprisoned; and from these two sources the tribes in that locality derive a considerable portion of their subsistence.

I have not the slighest reason to believe that any obstruction has ever been given to the aborigines in making use of this fishery; but as the granting of leases of runs will confer powers that in unworthy or inconsiderate hands (and many such there are among the men entrusted with the charge of stations), are susceptible of abuse, and, that once given cannot readily be recalled, I do myself the honour to submit for his Excellency's consideration, the making a reserve for the aborigines of one square mile at that part of the river, and of access to such reserve.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) W. C. Mayne,
Commissioner, Crown Lands.

Sub-Encl. 2 to Encl. in No. 3.

Sub-Enclosure 2 to Enclosure in No. 3.

My Dear Sir, Mount Arthur, Wellington, June 1, 1848.

The subject of the accompanying letter has brought very strongly before me the necessity of introducing into the leases of runs some general clause that will reserve to the aborigines such free access to land, trees, and water, as will enable them to procure the animals, birds, and fishes, &c., on which they subsist.

Reserving mere right of way and access to water will not be sufficient, for such in general acceptation must be taken to refer only to roads or tracts, and to water for men and animals' necessary use and consumption.

I am far from supposing that the rights and powers conferred by leases of runs are likely to be generally abused as regards the aboriginess, but as in unworthy hands they may be, and as once given, they cannot readily be recalled or interfered with, I think the safer plan will be to take precautions against such abuse; in short to act on the rule that prevention is better than cure.

It should not be lost sight of that many of the lessees are men of a very different class from the great majority of the purchasers of land, and that the situation of land purchased by such persons, being in almost all cases in the neighbourhood of some person of respectability or of police, prevented gross breaches of law or humanity, but in remote places beyond the boundaries, in the great majority of cases, no such check will exist.

Believe me, &c.,

The Hon. E. Deas Thomson. (Signed) W. C. Mayne.

Sub-Encl. 3 to Encl. in No 3.

Sub-Enclosure 3 to Enclosure in No. 3.

Sir, Attorney-General's Office, August 28, 1848.

I have the honour to acknowledge the receipt of your letter of the 14th instant, addressed to the Solicitor-General and myself, and adverting to your former communication of August 23, 1847; and stating that you are directed by his Excellency the Governor to transmit the enclosed letter from Mr. Commissioner Mayne, of the District of Wellington, suggesting that such free access to land, trees, and water should be secured to the aboriginal inhabitants in all leases of Crown lands, as will enable them to procure the animals, birds, fish, &c., on which they subsist; and requesting that, in pursuance of a recommendation of the Executive Council, we will insert, in the forms of leases which we have been instructed to prepare, such conditions as will secure to the aborigines the privilege of free access to lands remaining in an unimproved state.

In reply, I have the honour to state that I have consulted with the Solicitor-General on this subject, and we are inclined to think that no condition, securing to the aborigines the privilege of free access to lands remaining in an unimproved state, could legally be introduced into the leases of Crown lands proposed to be granted under the provisions of the 9 and 10 of Vict, ch. 104.

Probably Her Majesty might, by some future Order in Council, to be made under the 6th section of the aforsaid Act, authorize the insertion of such a condition in the leases; but

the present existing Orders in Council made by Her Majesty on March 9, 1847, by virtue of this Act, do not seem to authorize the insertion of any such condition.

The third section of the 5 and 6 Vict. c. 36, as also the 8th and 9th sections of chapter II. of the aforesaid Orders in Council, provide for the grant or reservation of such particular portions of lands as may be required for the use or benefit of the aboriginal inhabitants; but this is very different from providing that such aboriginal inhabitants should have a general permission granted to them to enter upon lands which had been granted or leased to others.

I have, &c.

(Signed.) JOHN H. PLUNKETT.
Atterney-General.

The Hon. the Colonial Secretary.

(No. 244.) No. 4. No. 4.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, November 16, 1848.

(Received April 26, 1849.)

(Answered May 4, 1849, No. 59, page 80.)

MY LORD,

I HAVE the honour to transmit the copy of a letter addressed to the Colonial Secretary of this Government by Mr. George Hobler, an unlicensed occupier of Crown lands in the lower Darling district of this colony, covering a petition to the Queen from himself and certain other persons similarly situated, praying that Her Majesty will be graciously pleased to place them on the same footing with respect to their right, under the existing Land Regulations, to demand leases of the lands they have hitherto occupied without licenses as if they had actually been in possession of licenses for the same. Sept. 23, 1848.

I need scarcely remind your Lordship that the 4th section of the Act 9th Vict., cap. 4, of the 28th August, 1846, prohibits, under certain penalties, the unauthorized occupation and use of Crown lands, and that the regulations for the occupation of such lands beyond the settled districts issued under my authority on the 1st January last, which have received your Lordship's sanction, and with which petitioners were duly made acquainted, point out the mode in which tenders for new runs will be received by the Government, and also afford to persons tendering for them every facility and advantage that they can reasonably expect; I, therefore, feel it my duty to recommend that the prayer of this petition should be rejected.

I have, &c.,

The Right Hon. Earl Grey, &c. &c.

(Signed) C. A. FITZROY.

Enclosure 1 in No. 4. Encl. 1 in No. 4.

SIR, Melbourne, September 23, 1848.

I HAVE the honour to acknowledge the receipt of your letter of May last, enclosing a copy of the opinion of the Attorney and Solicitor-General, upon the claims urged by myself and other settlers in the Lower Darling District, respecting the leasing our runs there situated, in which opinion those gentlemen were pleased to observe, that redress of the hardship we complained of could be obtained only by petition to the Queen in Council.

I have now further to acquaint you that, upon receipt of the opinion alluded to, I lost no time in getting a petition to Her Majesty, respectfully and properly prepared, and sent round the district of the Lower Darling, for the signature of the parties interested, and that I have now the honour to present it to you, under the full assurance that what I have done will meet the approbation of his Excellency the Governor, and that he will by recommending it to Her Majesty's favourable consideration, assist in doing an act of justice to a body of enterprising settlers, who have deserved every encouragement from the Government, for the way in which they have brought into a profitable state a large tract of new country, and, by their personal residence among numerous tribes of aborigines, conciliated them, and rendered safe for travelling, an extent of several hundred miles of road between Sydney and Adelaide, which had been, to the time of their settlement, most dangerous to life and property; and this great good has been obtained witnout cost to the Government or loss of life to either a black or a white man.

The object of the petitioners is simply to secure such interpretation of the new Land Regulations, as will enable them to lease their runs from the Government, as other occupants of Crown lands are allowed to do, and not to be forced to an auction by tender of premium upon their own property; a system which has in its first instance of application induced several individuals, who never put foot in the district, to endeavour to outbid the *bonâ fide* settler, who erected his buildings, and other improvements, in reliance upon the good faith of the Govern-

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ment securing his interest in them, as first occupier of the land, a practice never before departed from.

It is usual for new laws to be promulgated some time before they come into force, but these Regulations most unjustly take a retrospective view of our position.

All who are interested as I am in the working of the new Land Regulations, feel assured that no law so subversive, in its application, of the good feeling, which ought to exist between men living in such remote positions as those must do who can be affected by these new laws, would have emanated from the Governor or any local legislature. It is clearly an error arising from a partial acquaintance with the subject, but it tends to bring enmity amongst those who should cultivate none but kind feeling towards each other; pioneers of civilization as they are, they require the strength of unanimity, and confidence in each other, to make their lives and properties even safe. On the misery of bad neighbourhood under such circumstances, I need not dwell, yet the ill advised method by which tenure of our home is to be obtained, calls into action the evil passion most easily excited, cupidity; and most men's covetousness is excited to obtain possession of his neighbour's property, by bidding in secret 5*s*. more than the owner may chance to offer.

* * * * *

Instead of merely asking to be put upon the same footing, in payment of license fees and agistment charges for our sheep and cattle, with those more fortunate settlers who live within 15 miles of our shipping port, Geelong, we might well ask for exemption from payments of this kind altogether for some seven years to come, for we have more than 300 miles to carry our produce to the nearest shipping port, through a country without roads or bridges, and if we look for any other market for sale of live stock, we have Sydney and Adelaide nearly equi-distant, the nearest more than 500 miles off.

I could adduce many more most cogent reasons in favour of our petition, but I fear being troublesome, and if I have not now said enough to gain your favourable consideration, all I could add to my letter would be but waste of your time and mine.

I have, &c.,

The Hon. the Colonial Secretary. GEORGE HOBLER.

Encl. 2. in No. 4.

Enclosure 2 in No. 4.

To the Queen's Most Excellent Majesty in Privy Council assembled.

THE humble Petition of the graziers and squatters located in the districts of the Lower Darling and Lachlan in Your Most Gracious Majesty's colony of New South Wales,

Humbly showeth,

That Your Most Gracious Majesty's petitioners are graziers and squatters in the district of the Lower Darling and Lachlan in Your Most Gracious Majesty's colony of New South Wales, aforesaid.

That Your Most Gracious Majesty's petitioners, being possessed of sheep, cattle, and horses, far more than proportionate to the lands they respectively held in the settled districts of the said colony, it became necessary that they should seek new pastures among the waste lands.

That all the waste lands within the settled districts allotted to Commissioners of Crown lands were already occupied, and it then became compulsory on Your Most Gracious Majesty's petitioners to go far beyond the last settled station, with a view to discover lands on which to departure their said stock, or to put up with the only alternative that presented itself, that of selling such stock to great disadvantage, and thereby incurring a loss which would have amounted to little less than to their total ruin.

That for the period of the last 20 years, numerous enterprising people of the class to which Your Most Gracious Majesty's petitioners belong, have from time to time, and as their wants required, sought for pasturage in the wild waste lands of the continent of New Holland, lying beyond the boundaries of location, by which means large tracts of land have been discovered and brought into use, which would otherwise have remained in an unprofitable state of nature, in all human probability for many years to come.

That during the period of the last 20 years, and as often as new tracts of land have been discovered by the enterprise of private individuals, chiefly of the class to which Your Most Gracious Majesty's petitioners belong, it has been the invariable custom of the country, and in all cases recognised and acted upon by Your Most Gracious Majesty's Government at Sydney, that the persons by whose exertions and enterprise any new tracts of country were first discovered and occupied, should have a preferent claim to occupy portions of such lands as they might so discover, when they should be incorporated into districts, and Commissioners appointed thereto.

That in consequence thereof, and relying upon the invariable custom and practice, under similar circumstances, not being departed from, Your Most Gracious Majesty's petitioners, at great personal risk, privation, and expense, discovered the lands on which they are now located, and took possession of them by depasturing their stock thereon, and residing there with their servants and families, to the imminent danger of such stock, as well as the lives of themselves, their families, and servants.

That before so taking possession of the said lands, your petitioners requesed permission from Your Most Gracious Majesty's Government at Sydney, by application to the Hon. the

Colonial Secretary, and offering to conform to the laws then in force, with respect to the occupations of waste lands within those districts for which Commissioners had been appointed, and to take out a license and pay agistment fees for the stock Your Most Gracious Majesty's petitioners had respectively placed thereon, to any person whom Your Majesty's Government at Sydney should appoint for that purpose.

That the reply of the honourable the Colonial Secretary at Sydney to the application of Your Most Gracious Majesty's petitioners did not forbid them from occupying the said lands, but merely stated that "it being beyond the power of the Government to give police protection to the applicants, his Excellency the Governor could give no instructions."

That Your Most Gracious Majesty's petitioners thus looked upon the reply of the honourable the Colonial Secretary to their several applications, in not forbidding your petitioners to occupy the said lands, as a tacit acknowledgment on the part of Your Most Gracious Majesty's Government at Sydney, that the first occupation would, in compliance with uniform custom hitherto pursued in similar cases, be acknowledged as a prior claim on the part of Your Majesty's petitioners respectively to a license to occupy such lands.

That, it having become necessary to occupy such lands, Your Most Gracious Majesty's petitioners were compelled to lay out large sums of money, in buildings and other improvements upon them, and without which they would not have been of any service to them.

That, in consequence thereof, Your Most Gracious Majesty's petitioners, in full confidence that the custom hitherto followed would be acknowledged in the instance of your petitioners, as it had been in all other similar instances, have expended large sums of money in erecting those necessary buildings and improvements to enable them to carry on their respective business, and for the safety of their live stock, and for the security of themselves and families.

That after your petitioners had been in possession of their runs for various periods of time from one to three years, the Act of the Imperial Parliament, passed in the ninth and tenth year of Your Most Gracious Majesty's reign, arrived in the said colony, together with Your Most Gracious Majesty's Rules and Regulations, made in pursuance thereof, of the ninth day of March, in the year of Our Lord One thousand eight hundred and forty-seven, whereby it is ordered, that "if any individual be desirous to acquire a new run of land, which has never been occupied before, he shall be at liberty to send in a sealed tender, at such time and place, and in such form, as may be appointed by the Governor or officer administering the government of said colony for receiving tenders for new runs, and shall set forth in his tender a clear description of the run for which he applies, and of the boundaries of the same, and shall state whether, beyond the amount of rent to be ascertained as hereinbefore provided, he is willing to offer any, and, if any, what amount of premium for the lease; and such tenders shall be in all respects dealt with as hereinbefore provided in section 12 of this Order in Council for tenders for runs which have been forfeited or fallen vacant, save and except that if it shall occur that two or more persons have thus applied for different runs of which part of one run should include part or the whole of another run, the Governor or officer for the time being administering the government of the said colony, or the person or persons authorized by him to act in this behalf, shall declare what shall be the several runs for which it shall be competent to parties to tender, and another day shall then be named at which the previous applicants, and all other persons, shall be at liberty to offer fresh tenders for the runs so delivered."

That in consequence of a correspondence entered into between Your Most Gracious Majesty's petitioners and the Government at Sydney, as to the granting to your petitioners a lease for the runs they so respectively have occupied, and which correspondence was, by his Excellency the Governor, referred to the Crown law officers, for their advice and opinion upon the point involved in it; this expectation has, unfortunately, been destroyed by the interpretation put by those officers on the 13th section, who consider the runs of lands occupied under the circumstances above stated as runs which have never been occupied, for the only reason that "they were not occupied by license," although in every instance your petitioners asked the permission of Your Majesty's government at Sydney to occupy those lands, expressing their readiness to pay license and agistment fees as respectfully above stated, and which permission was withheld solely because the lands in question were not erected into a district having a proper officer to receive the fees for licenses and agistment, and on the ground that no police protection could be afforded by Your Majesty's Government either to your petitioners or to the aboriginal natives.

That the custom hitherto prevailing has proved a salutary and useful one, inasmuch as it encouraged the bold and enterprising to go in search of new countries, satisfied that their labour, fatigue, danger, privation and expense would meet its proper reward in giving the discoverer a priority of claim to so much of the lands he might discover as would be suitable to his purposes, and as he would be entitled to from the number of his stock.

That the cessation on the part of Your Most Gracious Majesty's Government to recognise so just, so natural, and so equitable a principle, will, your petitioners humbly show, go far to check the spirit of enterprise and discovery which has, since the establishment of the colony of New South Wales, distinguished the great body of graziers and squatters, and your petitioners beg leave most respectfully further to suggest, will be calculated to retard the full development of the interior resources of the colony, the increase of wealth and prosperity of the settlers, the due increase of Your Majesty's revenue, and materially affect the commerce as well of the mother country as of Your Majesty's said colony.

That the district of the Lower Darling and Lachlan is intersected by the road leading from Sydney, the capital of Your Majesty's said colony of New South Wales, and Adelaide, the capital of Your Majesty's colony of South Australia, a line of road reaching from one extremity to the other, a distance of 1,200 miles.

That previous to the said district being settled by your petitioners, the country through

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which the above line of road passed swarmed with hostile tribes of aborigines, through which tribes parties travelling with live stock from New South Wales to South Australia had, at great risk to their stock and of the lives of the parties concerned, to make their way.

That your petitioners, settling on the lands in question, have conciliated the goodwill of the said aborigines to so eminent a degree, that it is with the highest pleasure they communicate to Your Most Gracious Majesty the gratifying fact, that a solitary traveller may now pass in security and unarmed from the elder colony to the province of South Australia, and this great good your petitioners confidently and respectfully state has been effected without loss of life to either black or white, and at not one penny's expense to Your Most Gracious Majesty's Government either of England, New South Wales, or South Australia, but by the unaided exertions of the proprietors of stock, who, for its security, were obliged to reside on the land they occupied, and to conciliate aboriginal natives, who, in that district of New South Wales, are very numerous and of a notoriously ferocious character.

Your Most Gracious Majesty's petitioners therefore humbly pray that they may be permitted to have the respective portions of country they have hitherto occupied, upon the same terms as if they had held them under license, and that they may not be forced to compete with strangers for the possession of their houses, and other improvements, by the most objectionable description of auction, that of sealed tenders, by which Your Most Gracious Majesty's petitioners would be obliged to re-purchase all the buildings and improvements they have already made, or abandon all the property they have invested, which your petitioners humbly state to Your Most Gracious Majesty and Council would in many instance terminate in their total ruin.

And your Petitioners, as in duty bound, will ever pray, &c.

[Here follow 15 signatures.]

No. 5.

(No. 251.)

No. 5.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, November 24, 1848.

(Received 26th April, 1849.)

(Answered 29th May 1849, No. 81, page 81.)

My Lord,

1. At the request of a public meeting of the inhabitants of the district of Yass, held on the 12th October last, which was communicated to me by the Rev. C. F. Brigstocke and the Rev. C. Lovat, on the 18th instant.

2. I have the honour to transmit a petition addressed to Her Majesty the Queen, praying "an early reduction in the price of land to a fixed rate of five shillings an acre," and that "quantities of land sufficient for the demand, may be at once surveyed and made available for purchase."

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

C. A. FITZROY.

Encl. in No. 5.

Enclosure in No. 5.

Unto Her Most Gracious Majesty Victoria, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, &c. &c.

The humble Petition of the undersigned Clergymen, Magistrates, Landholders, and others, inhabitants of the district of Yass, in the colony of New South Wales.

Sheweth,

That your petitioners desire to approach Your Majesty with every expression of dutiful affection, and with the assurance of their most devoted loyalty to Your Majesty's crown and person.

That your petitioners relying upon Your Majesty's Royal care and consideration for the welfare and happiness of your subjects in this portion of your dominions, earnestly desire to call Your Majesty's attention to the pernicious effects of the high minimum price of one pound an acre, placed on the Crown lands of this colony.

That the present minimum price of one pound an acre is much beyond the real value of the Crown lands, is borne out both by the experience of your petitioners, and by the almost unanimous testimony of the witnesses examined before the select committee of the Legislative Council of this colony in 1844.

That by reference to the sales of Crown lands in this colony, it is already shown that as their minimum price was raised, their sales diminished in an equal ratio. And that, as a necessary consequence of this diminished land revenue, the means requisite to sustain immigration, so vitally essential to the welfare and progressive improvement of the colony, was nearly annihilated; and labour has attained a ruinous rate.

That the attempt to maintain this fictitious value has given rise to a series of Crown land

regulations, in the highest degree destructive of the best interests of the colony; and your petitioners desire to express their firm conviction, that unless the price of land is reduced, the colony, so far from progressing, must retrograde.

Your petitioners are further convinced that a reduction of the price of land in this colony to five shillings an acre would strongly influence many of Your Majesty's subjects who now emigrate to the United States, to select this colony.

That many of your petitioners are, and have long been, desirous to purchase Crown lands, from which, by the existing regulations, all prudent persons are effectually precluded; and that one evil of these regulations is the virtual reservation of the waste lands of the Crown within the boundaries of the colony, for those who have acquired land under the old system, to the exclusion of others desirous to purchase on equitable terms.

That your petitioners would further humbly desire to draw Your Majesty's attention to the inequitable ratio which the price of land in this colony bears to the price in other places, possessing superior advantages, both in situation and soil, viz., United States, five shillings an acre; Canada, three shillings and three pence to six shillings and sixpence; New Brunswick, two shillings and eight pence; Cape of Good Hope, two shillings; Nova Scotia, one shilling and nine pence; New South Wales, twenty shillings!

That another great evil arising frrom the high price of land is, the dispersion of the population to such an extent as to deprive them of the advantages of religious instruction and education, evils which your petitioners are most anxious to see remedied.

That, on a careful and dispassionate consideration of the subject, your petitioners are convinced that a fixed price of five shillings an acre is a fair and equitable average value for the Crown Lands of this colony.

That your petitioners strongly deprecate the existing system of sale by auction as tending to the monopoly by one class of the community, and to the practical exclusion of the other and *bonâ fide* reclaimer of the land.

That to meet the wants of the agriculturists, who constitute a valuable portion of the community, your petitioners would humbly pray that Crown lands may be surveyed and sold in portions of not less than 50 acres.

Your petitioners would most humbly solicit your Majesty to take such measures for an early reduction in the price of land to a fixed rate of five shillings an acre as to your Majesty may seem most fit, and that quantities of land, sufficient for the demand, may be at once surveyed and made available for purchase, the deficiency of which caused so much complaint and injury in the years 1839 and 1840.

And your petitioners as in duty bound will ever pray.

(No. 256.) No. 6. No. 6.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, November 30, 1848.

(Received April 27, 1849.)

(Answered August 6, 1849, No. 134, p. 83.)

My Lord,

Having deemed it my duty to bring under the consideration of my Executive Council a suggestion, afforded by the Attorney-General, that application should be made to your Lordship for such an amendment in Her Majesty's Order in Council, of the 9th March, 1847, as will remove all doubts as to the legality of transfers of leases granted thereunder, I have now the honour to transmit a copy of the proceedings of the Council on this subject. October 31, 1848.

Your Lordship will perceive that the Attorney-General entertains doubts whether, under certain expressions and conditions in the Order in Council as it at present stands, the original lessee would have legal power to transfer his lease to any other person; in which case his property therein could not be alienated by him during his lifetime, and at his death would absolutely terminate.

I fully concur in the opinion expressed by the Council, that considerable inconvenience and hardship would arise were such a construction to be put upon the Order in Council, and I therefore beg to recommend the amendment proposed to your Lordship's favourable consideration.

I have, &c.,

The Right Hon. Earl Grey, (Signed) C. A. FITZROY.
&c. &c. &c.

NEW SOUTH WALES.

Enclosure in No. 6.

Enclosure in No. 6.

NEW SOUTH WALES.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 31st October, 1848, relative to the proposed Amendment in Her Majesty's Order in Council of the 9th March, 1847, to remove doubts as to the power of Lessees thereunder to dispose of their Interest in their Leases.

Extract from Minute No. 48, 1841, 31 *October* 1848.

Members present:—

His Excellency the Governor,	The Honourable the Attorney-General,
The Honourable the Commander of the Forces,	The Honourable the Colonial Treasurer.
The Honourable the Colonial Secretary,	

HIS EXCELLENCY the Governor bring unders the consideration of the Council a suggestion of the Attorney-General, that application should be made to the Secretary of State, for such an amendment of Her Majesty's Order in Council of the 9th March, 1847, as will remove all doubts as to the legality of transfers of leases granted thereunder. The Attorney-General represents that there are certain expressions and conditions in the Order, from which it might be decided in law, that the leases are personal to the original lessee, and consequently not transferable by him, in which case his property therein could not be alienated by him durtng his lifetime, and at his death it would absolutely terminate.

Considering the inconvenience and the hardships which would arise, were such a construction put upon the terms of the Order in Council as has been suggested by the Attorney-General, the Council advise that the amendment proposed by him should be recommended by his Excellency to the Right Honourable the Secretary of State.

It has been hitherto customary to require the sanction of the Government, for every transfer for a pasturage license with a view to the exclusion of persons of improper character from the occupancy of Crown lands beyond the boundaries. The Council, however, consider such a restriction to be unnecessary with reference to transfers of leases, seeing that it has been removed by the Order in Council, as respects applicants for new runs, the Governor being bound in every case to accept the highest bidder as a Crown tenant.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

No. 7.

(No. 261.)

No. 7.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, December 5, 1848.

(Received April 27, 1849.)

(Answered May 20, 1849, No. 70, page 80.)

MY LORD,

IN my Despatch No. 39, of 16th February, 1848, I reported that I had taken the earliest opportunity of issuing to the Australian Agricultural Company a deed for the lands held by them in this colony, in terms of Her Majesty's Warrant under the Royal Sign Manual, transmitted with your Lordship's Despatch No. 127, of 13th April, 1847.

2. Adverting to the latter part of the Despatch, wherein your Lordship intimates that in consequence of the Company having now been released from the restrictions upon which they obtained the coal land, the agreement giving them the exclusive advantages in the working of that mineral, is to be considered at an end, I would beg to bring under your Lordship's notice, that during the period this monopoly was in force, all deeds of lands granted or sold in the Sydney district, contained a reservation of the coal which might exist therein, and to request your Lordship's instructions whether this reservation should not, under the circumstances, be resinded.

3. The matter was brought before the Executive Council, who expressed their opinion, that the interests of the colony would be best served by affording the utmost possible encouragement to the raising of coal, and with their advice, I have the honour to apply to your Lordship, for authority to declare, that in all deeds in which, for the protection of the Australian Agricultural Company's privilege, there has been inserted a reservation of coal, the same should be annulled without any charge.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

(No. 283.) No. 8.

NEW SOUTH WALES.
No. 8.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, December 29, 1848.

(Received April 27, 1849.)

(Answered June 16, 1849, No. 96, p. 81.)

My Lord,

I have the honour to forward to your Lordship, for presentation to Her Most Gracious Majesty, the accompanying petition, adopted at a public meeting held at Bathurst, praying that the Regulations published in this colony on the 29th* March last, with regard to the occupation of Crown lands with the settled districts, may be cancelled.

I also beg to furnish your Lordship with a copy of my reply thereto, under the advice of the Executive Council, and to add, that a similar decision has been given on three more such applications. Nov. 25, 1848.

I have, &c.,
C. A. FITZROY.

The Right Hon. Earl Grey,
&c. &c. &c.

(Copy.) Enclosure 1 in No. 8. Encl. 1 in No. 8.

To Her Most Gracious Majesty Victoria, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.

The humble Petition of the undersigned Landholders, Stockholders, Agriculturists, and others, Inhabitants of the district of Bathurst, in the colony of New South Wales.

Sheweth,

2. That the publication of the Land Regulations of 29th* March, 1848, for the occupation of Crown lands within the settled districts has occasioned the deepest anxiety and alarm throughout the colony.

3. That your petitioners consider the said Regulations to be unconstitutional, unjust, and impolitic, in favouring one class of the community to the prejudice of all others, and preventing the waste lands from being rendered fruitful, and tending to decrease the land revenue.

4. That, as the prosperity of the colony in general, and this district in particular, depends as much on the industry of the agriculturist as on the produce of the flocks and herds of the grazier, and the pursuit of agriculture being a less profitable employment than grazing, the agriculturist is entitled to every encouragement in the power of the Government to afford, so as to secure to the colonists in seasons of dearth an abundant supply of grain, and protect them against a repetition of the calamity which the scarcity of this important article of food brought on us in 1839.

5. That there are at present within the settled districts a large number of small sheep-owners and graziers, as well as agriculturists, occupying Crown lands under lease, many of whom will be removed from their present possessions under the new Regulations, whilst the others will be prevented from retaining them by being restricted from cultivation.

6. That the present occupiers of Crown lands contribute largely to the revenues of the colony, both by their rents and the consumption of imported goods, and to the prosperity of their respective districts by expending therein the produce of these lands in the maintenance of their numerous families.

7. That the small agriculturists of this district at present supply not only this but the surrounding districts with nearly the whole of the grain consumed therein, and should this class be prevented from cultivating the waste lands, we must again depend in a great measure on foreign importation for our bread.

1. That, in the opinion of your petitioners, the offering for sale at auction of Crown lands in small lots of twenty acres and upwards for agricultural purposes at the minimum price, and the leasing of the unoccupied waste lands at auction to the highest bidder, would tend to the advancement of the settled districts by encouraging the industrious labouring class to form settlements, thereby enabling them to enjoy the fruits of their industry, as well as the advantages of religious education.

9. That the said Regulations, if carried into effect, must lead to the most ruinous results, disastrous alike to all classes of the community, by tending to retard for years the now rising prosperity of the colony, and causing a strong feeling of disaffection in the middle and labouring classes towards the landed proprietors generally, and the Government in particular.

10. Your petitioners, therefore, relying on Your Majesty's anxiety for the prosperity of every class of Your Majesty's subjects, humbly pray that Your Majesty will be graciously pleased to take the said Regulations into your just consideration, and to order the same to be forthwith cancelled.

And your petitioners, as in duty bound, will ever pray.

[Here follow the signatures.]

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* These regulations will be found printed at page 34.

NEW SOUTH WALES.

Encl. 2 in No. 8.

Enclosure 2 in No. 8.

Colonial Secretary's Office, Sydney, November 25, 1848.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 16th ultimo, inclosing a petition from certain inhabitants of the district of Bathurst, upon the subject of the occupation of Crown lands within the settled districts, under the Regulations of date 29th March last.

His Excellency having brought this petition, as well as others on the same subject, under the consideration of the Executive Council, and the Regulations in question having been carefully reviewed, with reference to the representations which they respectively contain, his Excellency and the Council have arrived at the following conclusion, which, for the information of the petitioners, I am accordingly directed to communicate to you as his Excellency's decision on the prayer of their petition.

The Regulations in question were framed under the authority of, and in pursuance of, the directions contained in Her Majesty's Order in Council of the 9th March, 1847, chapter 4, the terms of which are as follows :—

"Within the boundaries of the settled lands it shall be competent for the Governor or officer administering the government of the said colony, to grant leases of lands exclusively for pastoral purposes, for terms not exceeding one year, and it shall further be competent for the Governor or officer for the time being administering the government of the said colony, if he deem it expedient, to make general rules, under which the holders of purchased lands within such districts of settled lands may be permitted to depastrue, free of charge, any adjacent Crown lands, provided that the depasture of such unsettled lands, free of charge, shall in no way interfere with the right of the Government at any time to dispose of the same, either by sale or by lease, for one year, as above mentioned."

In accordance with the first of the above provisions, it is announced in the Regulations of the 29th March, 1848, that leases of Crown lands within the settled districts will be granted for the term of one year only, although renewable under the conditions therein prescribed, and that lands held under such leases cannot be used for any other than pastoral purposes.

From the terms of the latter provision in the chapter of the Order in Council above cited, it is not clearly discernible whether in conceding to the holders of purchased lands the privilege of pasturing their stock free of charge over any adjacent vacant lands of the Crown, it was contemplated that such vacant lands should be parcelled out amongst the adjoining proprietors, so as to confer on each an exclusive right of pasturage over a particular portion, or whether it was merely intended that they should have the use of them in common. The Governor, therefore, with the advice of the Executive Council, has laid down a rule which appeared to be the most simple and expedient, that without any formal license to that effect, the mere holding of purchased lands, and however small in extent, shall carry with it the right of commonage over any adjacent Crown lands which may be unlet, but that the exclusive occupancy of any particular portions of land shall only be acquired by the purchase of a lease thereof from the Crown.

Seeing, however, that to the large graziers, whose main pursuit is the breeding of stock, a commonage right is of but little value, and fully appreciating the policy of allowing to extensive purchasers of lands the use of adjoining Crown lands for pasture at an easy rate, the Governor and Council have established the rule that every holder in fee-simple of 640 acres or more in one block shall be allowed to obtain, without competition, at a minimum rent somewhat higher than that paid by occupants in the unsettled and intermediate districts, the lease of any adjoining Crown lands which may be available, to an extent not exceeding three times the area of his fee-simple estate.

This rule is objected to by the petitioners, but upon grounds which appear to the Council to be insufficient for the support of the complaints of injustice which they prefer.

The Council unhesitatingly declare their opinion that those persons who have expended large sums in the purchase of lands from the Government, and have thus contributed the funds by which a great proportion of their fellow colonists of the labouring class have been provided with free passages to the colony, have a strong preferential claim to the occupancy of the Crown Lands adjoining their estates on favourable terms. However much therefore they may regret the impossibility of effecting an extensive alteration without inconvenience to individuals, the Council cannot set aside what appear to them to be the fair claims of the landowners under the system which is now established by the recent Acts of Parliament, and Her Majesty's Order in Council, for the sake of so temporary an interest as that of persons who have occupied Crown Lands under licenses, yearly sold by auction, and who, if they did retain possession of those lands, could not, under the present state of the law, apply any portion of them to other than pastoral purposes. Such persons must have recourse to those lands over which the preemption right has not been exercised, and of which the leases will still be obtainable by purchase at auction, under the 27th and following clauses of the Regulations.

The Council do not profess to regard with any peculiar interest those persons who quit hired service without any further capital than a few head of cattle, and who settle themselves down therewith as small squatters on the lands of the Crown in the settled districts, sometimes with, and sometimes without, a license frem the Government. The Council do however fully appreciate the value of the class of small farmers, who, out of the savings accumulated in service, have established themselves on purchased lands, and they would deeply regret that any thing in the new regulations should prove prejudicial to the interests of that class.

In framing the regulations in question, the Council did not omit to consider the expediency of conferring upon all proprietors of country lands alike the right of claiming leases of adjacent vacant Crown Lands at the minimum price, to the extent of three times the area of their respective properties. But after the most full and attentive consideration of the subject, the

Council found that it would be utterly impracticable to measure out their shares under any such rule to the holders of fractional parts of sections.

In one of the petitions which has been presented, it is suggested that the purchaser of a portion of a section should be entitled to claim a lease of the remainder, under a pre-emptive right. This would be a perfectly feasible and unobjectionable arrangement so long as there was only one holder of purchased land within the section; but it appears to be incapable of satisfactory adaptation to the altered circumstances which would arise as succeeding purchasers came in, and advanced conflicting claims to the occupancy of the still unsold portion of the section. The lands sold by the Government for small farms, under the designation of "special country lots," being continuously laid along the branches of rivers, or in other strips which are found to be adapted to cultivation purposes, such conflicting claims must, in almost every instance, arise, and the Council cannot perceive any satisfactory mode of effecting their adjustment.

To make repeated subdivisions of the unsold portions of the section, so as to partition out the land in just measure to the increased number of claimants, would be obviously impracticable. To admit the claim of the first purchaser to a continued lease of the unsold portion of the section by right of his prior occupancy, would not only be unjust, but it would operate as a great discouragement to the purchase of land. To put up the lease of the whole to auction would occasion dissension, which, amongst closely adjoining small proprietors, would be highly prejudicial, and the monopoly which the highest bidder would obtain would be detrimental to the interests of the remainder.

Under these considerations the Council have deemed the commonage right to be practically most suited to the position of the small farmers, as well as sufficient for their reasonable acquirements.

Adhering, then, to the opinion that a commonage and not pre-emptive right is that which it is most expedient to confer upon the purchasers of small farms, the Council have carefully reconsidered the Regulations of the 29th March last, for the purpose of ascertaining whether their provisions are such as to secure to the small farmers a sufficient reservation of lands for the exercise of the commonage right. By clause 5, no portion of land, consisting of less than 640 acres, or one square mile, will be let on lease, and consequently the sale of a portion of a section will prevent the renewal of the lease of the remainder, which will therefore become vacant and available for the exercise of the purchaser's right of commonage. By the 6th clause it is provided that no sections lying either in whole or in part within the distance of five miles from either of the cities of Sydney or Melbourne, or within the distance of two miles from any town shown by the last census for the time being to contain more than 1000 inhabitants, nor any land set apart as the sites of towns or villages, or measured for sale as "Special Country Lots," will be open to lease under these Regulations.

Considering it to be desirable that a further reservation should be made of certain breadths of land bounded by section lines or streams, about all small farms and "Special Country Lots," with a view to their use, until sold by the Crown, as commons appendant to the lots or farms, the Council have recommended that the Surveyor-General should be instructed to take measures for giving immediate effect to this arrangement, so that land required for this purpose may not be let for the ensuing year.

This modification of the Regulations, it is hoped, will afford the means of satisfying the reasonable claims of the small farmers for a right of pasturage over the vacant lands of the Crown, and of conferring upon them a share thereof which will be fully proportionate to the amount of their contributions to the land revenue; more especially when it is considered that they will enjoy this right of commonage free of any charge whatever.

From certain expressions in the other petition it may be inferred, that the petitioners labour under a not uncommon misapprehension that the Government will not sell country lands in less portions than 640 acres. The Council, therefore, think it necessary to observe, that no departure is intended from the existing practice under which country lots are sold in portions varying from 20 acres upwards; and it will be perceived, on reference to the 11th section of Regulations, that all lands held under lease will be at any time open to purchase, and that such as may be sold must be surrendered by the lessee upon his receiving one month's notice.

In order to afford to those persons who, as is represented, have made improvements on lands which they have been holding on yearly lease an opportunity of retaining possession thereof by the purchase of them at auction, the Council suggest that on the application of the occupants, to be made before the 31st December next, any such lands should be reserved from lease, and be measured and offered for sale under the general regulation of which I have the honour to enclose a copy.*

* Page 20.

Having thus explained their views in respect to those points in the regulations of 29th March last, which have been objected to in the petitions before them, the Council have now to record their opinion that those regulations with the modification which, as above stated, they have seen reason to recommend, will give effect to the intentions of Her Majesty's Order in Council in the manner which will be most conducive to the general advantage of all parties interested, and most impartial in its application. The Council cannot, therefore, support the prayer of the petitioners, that those Regulations should be further modified, or that their operation should be suspended.

I have, &c.,

(Signed) E. Deas Thomson.

NEW SOUTH WALES.

Encl. 3 in No. 8.

Enclosure 3 in No. 8.

Colonial Secretary's Office, Sydney, November 21, 1848.

Occupation of Crown Lands within the Settled Districts.

With reference to the Regulations published on the 29th March last, his Excellency the Governor, with the advice of the Executive Council, has directed it to be notified that any person now in actual licensed occupation of Crown lands within the settled districts, who, before the 31st December next, may make application to purchase any portion not less than 30 acres thereof, will be permitted to occupy, on the same terms and at the same rent as at present, the section of which the land applied for forms part, until such portion of land shall have been measured and offered for sale, and an opportunity shall have thus been afforded to him of acquiring the fee simple.

Sections of land of which any portion may be required for sale under the terms of this notice will not be let under the pre-emptive right conferred by clause 16 of the Regulations of the 29th March last; nor will they again be obtainable on lease, even though no part of them be actually sold. In all such cases those portions of sections which may have been put up for sale and not bid for, or on which the deposit shall have been forfeited, will be kept open to selection for purchase without competition, under the provisions of the Land Sales Act, 5 and 6 Vict., c. 36, and the Regulations thereon founded, of the 1st March, 1843. The remaining portions of the sections will be reserved, until required for sale, for the use of the adjoining holders of land in fee simple, as a common.

By his Excellency's command,

E. Deas Thomson.

No. 9.

(No. 1.)

No. 9.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, January 1, 1849.

(Received April 27, 1849.)

(Answered June 20, 1849, No. 100, p. 82.)

My Lord,

1. My predecessor in this Government more than once, I believe, directed the attention of the Secretary of State to the necessity which existed for the appointment of an officer to assist in the administration of the Crown lands of the colony.

2. But he in an especial manner placed on record his views on this subject in a Despatch addressed to Lord Stanley on the 28th March, 1846, No. 70, from which I take leave to quote the following passage:—"I have long entertained, and I believe occasionally expressed an opinion that the appointment has become necessary of an officer, whose duty it shall be to assist and advise the Governor in all matters connected with the proper administration of the domain of the Crown in this colony. Should such an office be created, I am of opinion that the officer filling it might, with great propriety and advantage, be placed in the Executive Council. His designation might be 'Superintendent or Inspector of the Domain of the Crown,' or 'Chief Commissioner of Crown Lands,' and his salary, which ought not, I think, to be less than 800*l.* a-year, would of course be chargeable on the revenue derived from Crown lands."

3. This proposition was neither affirmed nor negatived. Your Lordship's predecessor merely observing in his Despatch to me of 28th of August, 1846, No. 28, that "the question incidentally adverted to by Sir George Gipps, of appointing an officer for the purpose of assisting and advising the Governor in all matters connected with the administration of the domain of the Crown, shall meet with future consideration."

4. It may be desirable that I should state the reasons why I did not at an earlier period support with my own opinion the suggestion thrown out by Sir George Gipps. Firstly, I largely participated in the reluctance which he appears to have felt to create any new office where it could possibly be avoided. Secondly, I was naturally desirous that my opinion should be based on ample personal experience of the extent of the duties which would appertain to such an officer when appointed. And, lastly, I was aware that Her Majesty's Government had proposed to the Imperial Parliament an amendment of the Waste Land Sales Act which, if passed into law, would in all probability have the effect of remodelling the system of Crown lands occupation in the Australian colonies.

5 and 6 Vict. c. 36.

5. The permissive occupancy of the waste lands of the Crown first officially

NEW SOUTH WALES.

recognized in 1836, during the administration of Sir Richard Bourke, being closely identified with the product of the chief export of the colony, has naturally enough grown in importance with the growth of the colony and the increase of its population. It was reduced to something like system by the local enactment (now expired) passed in 1839, and acquired an unusual prominency by the measures taken in 1844 to abate some of the evils which were inherent in it. In the latter part of 1846, the Waste Lands Sales Amendment Act was passed, and was followed by Her Majesty's Order in Council of 9th March, 1847, which came into effect in this colony on 7th October of that year.

2 Vict. No. 27.
Notice April 2, 1844.
9 and 10 Vict. c. 104.

6. It was then for the first time that the occupancy of the waste lands before discerptible and uncertain, acquired the importance and permanency which it now assumes. With the number and magnitude of the Crown lands questions which I have had occasion to bring under the consideration of my Executive Council, your Lordship is already acquainted, and the steps which, with the assistance of the Council, I was enabled to take for giving effect to the intentions of Her Majesty's Government have met your Lordship's approval.

7. I inclose a pamphlet containing all the local regulations of Government based on the Order in Council of 9th March, 1847.

Regulations printed from page 22 to 40 of this paper.

8. These regulations, together with the proceedings of Council before adverted to will, in some measure, enable your Lordship to form an idea of the enormous extent of the correspondence and business of detail which are necessary in carrying out these regulations.

9. In the middle district of the colony alone, nearly 1600 demands for leases were received, in pursuance of the provision in the 11th section of cap. 2, of the Order in Council. These demands, had of course, to be minutely investigated, with a view to test their validity.

10. With this view also, as well as to provide for the making of sufficient public reserves, each demand had to be referred, for the report of the respective Crown Land Commissioners, and such demand had to be publicly notified, in order that persons who conceived their runs to be encroached upon, might have an opportunity of interposing their caveats or objections.

11. As showing the nature and extent of these demands, I enclose copies of the Government Gazettes,† containing all those that have hitherto been notified.

12. Of the caveats consequent on these gazetted demands, nearly 700 have been received, and now remain for investigation, by Commissioners to be appointed under the provisions of the Local Act,‡ having reference to disputed boundaries. These are of course quite irrespective of the district of Port Phillip.

† The following is the list of the Numbers and dates of the Government Gazettes referred to :—
No. 49, May 11, 1848.
No. 59, June 3, 1848.
No. 78, July 22, 1848.
No. 82, August 2, 1848.
No. 87, August 14, 1848.
No. 98, Sept. 9, 1848.
No. 103, Sept. 20, 1848.
No. 104, Sept. 21, 1848.
No. 106, Sept. 25, 1848
No. 107, Sept. 25, 1848.
No. 109, Sept. 27, 1848.
No. 111, Sept. 30, 1848.
No. 92, August 26, 1848.
No. 100, Sept. 13, 1848.
No. 120, October 21, 1848.

13. In addition to the foregoing, there has grown up a very considerable correspondence with respect to tenders for new runs of Crown lands, as prescribed in the 13th section of chap. II, of the Order in Council, and this, so far from decreasing, must inevitably increase rapidly, in consequence of the large extent of territory which has recently become available for occupation, to the northward and westward, embracing the lands opened up by the discoveries of Dr. Leichardt and Sir Thomas Mitchell.

14. Hitherto, the entire of this correspondence has been conducted in the office of the Colonial Secretary, and the consequence has been, a very large increase in the business of that department, for I am informed by that officer, that the number of letters on all subjects received in his office during each of the last three years was as follows, viz.:—

‡ 11 Vict. No. 61.

1846.	1847.	1848.
9,472	10,403	14,508

The rapid increase here shown, being distinctly traceable to Crown lands' questions, and again, irrespective of a large correspondence with the various officers of Government, the numbers of letters addressed to private individuals alone, on subjects connected with the occupation of Crown lands beyond the settled districts was, exclusive of printed circulars, as follows, namely, in—

1846.	1847.	1848.
127	197	1,355

15. I doubt not your Lordship will agree with me that such a state of things is scarcely compatible with the more legitimate functions of the chief organ of Government.

* Page 132, "Papers relative to the Occupation of Crown Land in New South Wales;" presented to both Houses of Parliament by Command, August 1848.

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16. Still, could I have assured myself that the Crown lands business had reached its height, I would have hesitated to take the step which I am about to report to your Lordship, resting satisfied that the exertions hitherto made by the Colonial Secretary would not be relaxed. But a contrary conviction forces itself upon me. The steps still to be taken in respect to licensed runs in this colony, in order completely to carry out the views of Her Majesty's Government, although perhaps not more important than those already taken, are yet more diffuse and in detail. I allude to the investigation of disputed boundaries, the assessment of the grazing capability of the runs, their measurement, the preparation and final issue of the leases.

17. I trust, my Lord, that the particulars herein set forth will fully justify the step which I have taken, and which I have now the honour to report, namely, the appointment, subject to Her Majesty's pleasure, of an officer in some respects analogous to the officer suggested by Sir George Gipps, under the designation of "Chief Commissioner of Crown Lands."

18. I enclose a copy of a letter addressed to that officer briefly indicating the general nature of the duties to be assigned to him. From this your Lordship will perceive that the detail only of the Crown lands business beyond the settled districts of the Sydney or Middle District, is to be handed over to the new department including a voluminous correspondence with the Crown Commissioners, now numbering no less than sixteen in the Middle District alone. The Chief Commissioner will in fact be charged with the application of the law and local regulations to individual cases, whilst he will look to the Colonial Secretary for the instruction of Government in the promulgation of new regulations, and generally in cases of difficulty.

December 29, 1848. Page 39.

19. Having arrived at the conclusion for the reason above cited, that the new office was required for the public good, it became my duty, in obedience to the instruction conveyed to me in your Lordship's Despatch, noted in the margin, to offer the appointment to Lieut.-Colonel Barney, who has accepted it at a salary of 600*l.* per annum.

20. It may not be superfluous to add that had Sir George Gipps carried out this measure as he contemplated, Colonel Barney is the person he would have recommended to hold the office.

No. 49, March 18, 1848.

21. The department placed under Colonel Barney is, for the present, limited to five clerks, at the rates of pay specified in the letter addressed to that officer; and four of these clerks have been transferred from the Colonial Secretary's Office, by which transfer the expense of the Colonial Secretary's Department will of course be by so much diminished.

22. The entire expense of Colonel Barney's Department will, of course, be borne on the territorial revenue.

I have, &c.

The Right Hon. Earl Grey,
&c. &c. &c.

C. A. FITZROY.

Encl. 1 in No. 9.

Enclosure 1 in No. 9.

LOCAL LAND REGULATIONS, &c.

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Colonial Secretary's Office, Sydney, October 7, 1847.

LEASES OF CROWN LANDS BEYOND THE SETTLED DISTRICTS.

1. HIS Excellency the Governor, in reference to his Proclamation of this date, publishing Her Majesty's Order in Council, regulating the occupation of waste lands of the Crown

within this colony, deems it proper to caution the licensed occupants of waste lands of the Crown beyond the settled districts, that the rights conferred on them by the 11th section of cap. II. of the Regulations must be exercised within the periods in that section prescribed, by relation to the date of the proclamation above referred to, publishing the said Order in Council.

2. The applications must be lodged in the office of the Colonial Secretary, in Sydney, if the lands for which the lease is applied for be situated within the Sydney or Middle District, or of his Honour the Superintendent at Melbourne, if within the southern or Port Phillip District; and, in order to preserve uniformity, the applicants will be required to use the printed forms, copies of which may be obtained from the Commissioners of Crown Lands beyond the settled districts, as well as at the office of the Superintendent at Melbourne, and at this office.

3. All such applications must set forth the names and clear descriptions of the runs applied for, and of the boundaries of the same, as prescribed with respect to new runs, by the 13th section of chap. II. of the Order in Council. In such description it will be necessary to refer to leading geographical features, and marked or determined boundary lines, as well as to the names of the occupants of adjacent lands, and to give the length and general direction of the several boundary lines with reasonable certainty; and also to state the supposed extent of the runs, and the number of sheep, or equivalent number of cattle, which each run may be estimated as capable of carrying.

4. An abstract of all applications received will, from time to time, be published in the "New South Wales Government Gazette," or "Port Phillip Government Gazette," for the information of all parties concerned.

5. Persons who object to the claims of others, either wholly or in part, as comprising lands to the lease of which they may conceive themselves entitled, are recommended to lodge in the office of the Colonial Secretary, or Superintendent of Port Phillip, caveats referring to such claims, and specifying the lands to which their objections extend, and the grounds on which they prefer their claims to the same.

6. It will be impossible that the issues of leases should take place immediately on demands being made for them. In many cases the Government may not be able until the end of the year 1848 to determine whether the particular runs applied for will be included in the intermediate or unsettled districts, and in all cases it will be necessary to consider and decide on the claims of applicants, to verify the descriptions of the runs, and to estimate the number of sheep or cattle which each run will carry, and the rent accordingly to be paid. His Excellency however desires at the same time to intimate, that all practicable despatch will be used for the purpose of putting the occupants of Crown lands in possession of the leases, to which they may be entitled under Her Majesty's regulations.

By his Excellency's Command.

E. Deas Thomson.

Colonial Secretary's Office, Sydney, January 1, 1848.

Crown Lands beyond the settled Districts.

Tenders for Runs.

His Excellency the Governor, in pursuance of Her Majesty's Order in Council, bearing date the 9th day of March, 1847, has been pleased, with the advice of the Executive Council, to establish the following regulations for the receipt and disposal of tenders, as well for forfeited or vacated runs as for new runs.

1.—*Forfeited or Vacated Runs.*

1. On the receipt of a notice from any person of his desire to purchase the lease of a run, which, after having been occupied, may have fallen vacant, either by forfeiture or surrender, and to the leasing anew of which no objection shall arise, a notice will be issued in the "Government Gazette," describing the boundaries and grazing capability of the run applied for, stating the maximum number of years for which a lease thereof will be granted, and fixing a time and place at which sealed tenders, in a prescribed form, will be received from the applicant, and from any other persons desirous to enter into competition with him, for the purchase of the lease of the described run.

2. Every such tender must state the term of years within the limit mentioned in the notice, for which it is proposed to take the run, and whether, in addition to the rent required by the Order in Council, it is intended to offer any, and if any, what amount of premium for the lease.

3. The tenders will be opened in the presence of a Board of Officers appointed by the Governor, and will be disposed of in the manner directed in the 12th section of Chapter II. of Her Majesty's Order in Council, a copy of which is annexed to this notice for more easy reference.

4. The lease will be made out as soon after the acceptance of the tender as may be practicable; and the intending lessee will be required to take up the lease by payment of the first year's rent, and the premium, if any, within sixty days from the date of the notification of the acceptance of his tender; in default of which, the run will be again declared open to public competition.

5. Until the lease has been actually taken out, the intending lessee will acquire no title whatsoever to the occupation of the land tendered for.

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II.—*Tenders for New Runs.*

1. Sealed tenders for new runs will be received on the first Monday in every month—commencing on Monday, the 7th day of February next.

2. The tenders in the prescribed form are to be addressed to this office, if the land be situated in the middle district, or to the office of his Honour the Superintendent at Melbourne, if situated in the Port Phillip district.

3. The tenders will be opened in the presence of a Board of Officers appointed by the Governor, and a record will be made in each case of the name of the highest tenderer, so as to secure to him the lease, in the event of the land applied for proving to be available.

4. The description of each run tendered for will then be forwarded to the Commissioner of the District in which it is situated, with instructions to report whether it comprises any land leased or under promise of lease, or applied for in any other tender, and if it does comprise any such land, that he shall state what should be the run for which it shall be declared competent to parties to tender.

5. If the run applied for be available, the acceptance of the tender will be duly notified to the applicant; and the premium (if any) and first year's rent, computed in the manner hereinafter described, will be required to be paid within sixty days from the date of such notification; in default whereof, the run will be declared by advertisement in the "Government Gazette," to be open for selection, and a day for the receipt of fresh tenders for it will at the same time be announced.

6. Until the first year's rent and premium (if any) shall have been actually paid, the intending lessee will acquire no right whatever to the occupation of the land tendered for.

7. It is also to be distinctly understood, that the Government reserves to itself the right of excluding from any such run any lands which it may be deemed proper to reserve for any of the purposes referred to in the 9th section of chapter II. of the Order in Council.

8. In any case in which the boundaries of the run tendered for may require to be adjusted, so as to exclude from it any land leased, or under promise of lease, or applied for by another party, the amended description of the run, and the day on which fresh tenders will be received for it, will be publicly notified, in conformity with the provisions in that behalf contained in the 13th section of chapter II. of the Order in Council, a copy of which is annexed to this notice for more easy reference.* The interval between such notification, and the day on which the tenders will be received, will not be less than one calendar month.

9. As a considerable interval must be expected to occur in every case between the acceptance of a tender for a new run, and the survey of its boundaries, and the valuation of its grazing capabilities, which will be requisite for the purposes of a formal lease and the final adjustment of the rent, the following general rules have been laid down, under which the occupancy of the run during such interval may be granted to the successful tenderer, and the receipt of rent secured to the public.

1. Tenders for new runs must contain not only "a clear description of the run applied for, and the boundaries of the same," but also an estimate of its grazing capabilities; and the tenderer should state that, in addition to any premium which he may offer, he will be prepared to pay a yearly rent of 10*l.*, with 2*l.* 10*s.* added for every 1000 sheep, or their equivalent in cattle, above 4000 sheep, or their equivalent, which the run shall be estimated as capable of carrying.

2. Until the number of sheep or cattle which the run can carry shall have been determined by valuation, in the manner prescribed in Her Majesty's Order in Council, the intending lessee will be required to pay according to his own estimate as given in his tender; and in the event of the rent so paid according to his own estimate, proving to have been less than that determined by valuation, he will be required to make up the difference previously to the execution of the lease.

10. Printed forms of tender for forfeited or vacated runs, and for new runs respectively, may be obtained from the several Commissioners of Crown Lands beyond the settled districts, as well as at the office of the Superintendent of Port Phillip, and at this office.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, February 21, 1848.

Tenders for Runs.

Referring to the notice dated 1st January last, relative to tenders for runs of Crown lands, his Excellency the Governor directs it to be notified that, in the receipt of future tenders the following rules must be strictly attended to, viz.:—

1. The tenders will be opened at noon of the day appointed for their receipt,—namely, the first Monday in each month. Any tender received after that hour will remain over until the time appointed for opening tenders in the succeeding month, and will be subject to any competition which may arise, by reason of any tenders received up to that time.

2. No tender will be entertained in future, unless made in the prescribed printed form, containing all the necessary particulars.

3. The tenders must be endorsed "Tender for New Run," or "Tender for Vacated Run," as the case may require.

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* See sect. 13, page 16.

4. As it is intended to act strictly on these rules, any person failing to comply with them will, after this intimation, have no reason to complain, if he shall thereby lose any benefit which a compliance with them would have secured to him.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, March 31, 1848.

Tenders for New Runs.

In reference to the regulations of the 1st January, 1848, respecting tenders for new runs, his Excellency the Governor, finding that some misapprehension exists on the subject, has been pleased, with the advice of the Executive Council, to direct that the following explanatory observations and additional rules should be published for general information.

1. The rule laid down in the Notice of the 10th July, 1845, that no new run shall in ordinary cases consist of more than 25 square miles is still to be observed. Persons therefore tendering for new runs must not apply for any larger quantity than 25 square miles, under a single lease, unless that quantity shall be insufficient in ordinary seasons for the pasturage of 4000 sheep, or their equivalent in cattle, in which case the run may be enlarged to the area necessary for that purpose. But if, on an estimate of its grazing capability, any run so enlarged shall be found to be greatly in excess of the quantity requisite for the pasturage of 4000 sheep, or their equivalent in cattle, it will be liable to be curtailed to the regulated standard, and any further expense incurred in surveys or otherwise, will have to be defrayed by the party tendering.

2. Any person desiring to obtain a larger tract of country than 25 square miles will not be precluded from doing so by the rule referred to in the foregoing paragraph; but he must tender for it, not in one block, but in separate portions not exceeding 25 square miles each in extent.

3. In accepting tenders for new runs, the government will reserve to itself the right in every case of modifying the boundaries proposed, so far as may be necessary to render them conformable to the undermentioned general rules; and the persons employed in the survey and measurement thereof will be instructed to adjust and describe the boundaries accordingly, viz.:—

1. Subject to such deviations as the general features of the adoption of natural boundaries may require, every run must be in a compact block of rectangular form, in which the external lines shall run east and west and north and south.

2. No person will be allowed so to shape his run as to secure to himself the exclusive use of water necessary to render any adjoining lands available.

4. No tenders already sent in will be rejected, because of the quantity applied for as one run being in excess of the regulated area; but on the acceptance of any such tender, the applicant will be required to propose a subdivision of the land into separate holdings, so as to bring the area held under each lease within the prescribed limit, and to make it conformable in other respects to the general rules above laid down.

5. The regulations set forth in the above-mentioned notice of the 1st January, 1848, in respect to tenders for new runs, are manifestly inapplicable to parts of the colony which are situated beyond the reach of the protection and control of the Commissioners of Crown Lands. The said regulations do not extend to such parts of the colony, and tenders for runs so situated cannot, therefore, be entertained.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, January 1, 1848.

Crown Lands beyond the Settled Districts.

Transfer of Runs.

His Excellency the Governor, with the advice of the Executive Council, has been pleased to establish the following rules respecting the transfer of runs beyond the settled districts, previously to the issue of leases, under Her Majesty's Order in Council, dated 9th March, 1847.

1. Demands for leases of runs under the 11th section of chapter II., of the Order in Council, will (with the exceptions mentioned in the 2nd paragraph of this notice,) be received from those persons only who were the licensed occupants of the runs at the date of the publication of the Order in Council by the Governor. But in consideration of the delay that must necessarily take place in the issue of the leases, any licensed occupant, who, after having demanded his lease, may desire to part with his interest in the same, will be allowed to have the lease made out in favour of any person recommended by the Commissioner of the District, on making written application to that effect to the Colonial Secretary, in Sydney, or to the Superintendent of Port Phillip, at Melbourne, (as the case may be,) such application to bear the applicant's own signature, attested by a Magistrate or a Commissioner of the Supreme Court. In this case the original applicant will be debarred from all further claim to the lease, the right of which will be thenceforth held to be vested in the person in whose favour he requested that it should issue.

2. If, however, a person who had a right to demand a lease of a run in his occupation, under the terms of the 11th section of chapter II. of the Order in Council, shall have died or become insolvent, without having exercised such right, the demand for the lease will be received by the Government from his representative, or from any one coming forward on his

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representative's behalf. The issue of the lease, however, will, in such case, be suspended, until the claimant thereof shall have satisfactorily proved himself to be the legal representative of the deceased or insolvent person; and, in the meantime, the rent must be regularly paid, in default whereof, the run will be held to have become vacant, and the lease of it will be exposed to sale.

3. The transfer of portions of existing runs will, in no way, be allowed by the Government. For each run, now recognized as such, but one lease will issue, and any portion of such run which may not be demised to the lessee of the remainder, will be held to have become vacant, and to be at the disposal of the Government.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, June 30, 1848.

Crown Lands beyond the Settled Districts.

Transfer of Runs.

With reference to the notice of 1st January, 1848, headed "Transfer of Runs," in which it is provided, that "in consideration of the delay that must necessarily take place in the issue of leases of runs demanded under the 11th sectionof chapter II. of Her Majesty's Order in Council of the 9th March, 1847, any licensed occupant, who, after having demanded his lease, may desire to part with his interest in the same, will be allowed to have the lease made out in favour of any person recommended by the commissioner of the district, on making written application, in the manner in the said notice prescribed, but that, in this case, the original applicant will be debarred from all further claim to the lease, the right of which will be thenceforth held to be vested in the person in whose favour he requested that it should issue;" his Excellency the Governor, with the advice of the Executive Council, directs it to be notified, that in all cases in which claimants of leases of runs shall have alienated their right thereto, under the provisions of the notice above cited, the licenses for such runs for the ensuing year will be issued not to the person who previously held them, but to the proposed transferrees.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, January 1, 1848.

Crown Lands beyond the Settled Districts.

Proportion of Cattle to Sheep.

Her Majesty, by Order in Council, dated the 9th March, 1847, having determined that the rent to be paid for each several run of Crown land beyond the settled districts of New South Wales, shall be proportioned to the number of sheep, or equivalent number of cattle, which the run shall be estimated as capable of carrying, according to a scale to be established for the purpose, by authority of the Governor, his Excellency directs it to be notified that he has, with the advice of the Executive Council, established the following scale for such purpose, that is to say:—

Six hundred and forty head of cattle shall be considered equal to four thousand sheep; and in cases in which the stock upon a run may consist of sheep and cattle, the amount of mixed stock (horses being reckoned as cattle) shall be calculated in the proportion of six hundred and forty head of cattle to four thousand sheep.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, February 4, 1848.

Crown Lands beyond the Boundaries.

Renewal of Licenses for current Year.

His Excellency the Governor, with the advice of the Executive Council, has directed it to be notified, that several applications having been made to the Government by parties who have, from various causes, failed or omitted, within the time prescribed, to take out their licenses for the current year, for the occupation of runs beyond the settled districts, but are now desirous to do so, his Excellency has been pleased to lay down the following rules, under which they will still be permitted to obtain licenses, on payment of a fine for default, namely:—

1. All persons who held licenses for their runs for the year ended on the 30th of June last, but who have failed to renew them for the present year, may now be allowed to do so, on payment of a fine, in addition to the price of the license, at the rate of one pound for every month, or part of a month, which will have elapsed between the 30th of September last and the taking out of the license.

2. It is to be clearly understood, that if on or before the 6th of April next, being the day on which the period of six months will expire, within which certain licensed occupants of runs are entitled to demand leases, any person occupying Crown Lands beyond the settled districts shall not have taken out a license for the current year, such person must be held not to have been in licensed occupation within the meaning of the 11th section of chapter II. of the Order in Council, and his demand for a lease cannot, therefore, be entertained; his run will accordingly,

be declared to be forfeited, and the lease of it open for sale in the manner prescribed by the 12th section of chapter II. of the Order in Council.

3. It is further to be understood, that this notice does not apply to parties, if any, who, notwithstanding they have failed to take out their licences for the past, as well as the current year, have continued in occupation of Crown Lands; and who, according to the declaration contained in the notice of the 30th June, 1846, have thus been holding against the will of the Crown. Their runs are, therefore, now considered to have become forfeited, and liable to be dealt with accordingly.

By his Excellency's command,

E. Deas Thomson.

Colonial Secretary's Office, Sydney, June 1, 1848.

Crown Lands beyond the Settled Districts.

Renewal of Pasturage Licenses.

His Excellency the Governor, with the advice of the Executive Council, directs it to be notified for general information, that the state of the survey not yet admitting of the issue of leases for runs beyond the settled districts, all existing licenses for the occupation of Crown Lands so situated will be renewed for the ensuing year, commencing on the 1st July next, on the same terms as licenses have been granted for the now current year, subject, of course, to the adjustment of the license fee according to the quantity of stock returned by the Commissioner as depastured on every such run.

2. Adverting to the 5th section of chapter II. of Her Majesty's Order in Council, dated 9th March, 1847, which declares that leases of runs issued thereunder will be absolutely aud indefeasibly forfeited if the stipulated rent be not paid within the time therein prescribed, his Excellency the Governor desires it to be distinctly understood that claims to leases will, in like manner, be held to have become forfeited and void if the licenses for the continued occupation for the ensuing year of the lands for which leases are sought shall not have been taken out within the time fixed by the present notice, namely, between the 1st day of July and the 30th day of September next.

3. If, within the year commencing the 1st July next, the Government shall be in a position to grant leases of runs under Her Majesty's Order in Council, any licensee under this notice who may obtain a lease, will receive credit in the payment of his first year's rent for so much of the amount paid for his license as may be proportionate to the unexpired part of the term for which the license was granted.

4. The present regulation does not, however, extend to lands which have been brought by the Order in Council within the settled class, but which have hitherto been held under squatting licenses for pastoral purposes. The occupants of such lands will be enabled to obtain leases for the same on the terms prescribed in sections 22, 23, and 24 of the notice of 29th March last.

By his Excellency's command,

E. Deas Thomson.

No. XVIII.—An Act to authorize, for a limited time, an assessment upon Stock pastured beyond the settled Districts of New South Wales. [Assented to, September 17, 1847].

Whereas it is necessary to make provision for the protection and good government of all persons residing beyond the Settled Districts of the colony of New South Wales, and by reason thereof it is expedient that an assessment should be raised and levied upon all stock pastured beyond the said Settled Districts: Be it therefore enacted, by his Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, that in each and every year, there shall be levied and paid upon and in respect of the stock of every person pasturing or keeping the same, upon any lands situate beyond the Settled Districts of the said colony, as the same now are, or hereafter may be, defined, the assessment following, that is to say:—for every sheep, the sum of one halfpenny, for every head of cattle, the sum of one penny halfpenny, and for every horse, the sum of three-pence; which assessments respectively, shall be paid by the person assessed, before the first day of April in each year, at the office of the Colonial Treasurer in Sydney, or Sub-Treasurer at Melbourne, or to such other officer or officers, or at such other place or places as shall be appointed in that behalf, by the Governor for the time being.

Preamble.

Yearly assessment on stock.

Persons Pasturing Stock to make Returns to Commissioner.

II. And be it enacted, That every person pasturing or keeping stock as aforesaid, shall make, or cause to be made, to the Commissioner of the district wherein the said stock is pastured, a return, on the first day of January, or within fourteen days thereafter, in each and every year, according to the form contained in the Schedule hereunto annexed, marked A, of all sheep, cattle, and horses kept and pastured by him, as aforesaid; and if any such person shall fail or neglect to make, or cause to be made, such return at the time so appointed, or shall omit to deposit the same with the said Commissioner, in manner hereby required, he shall, on conviction before any two or more justices of the peace, forfeit and pay for every such offence, a sum not less than forty shillings nor exceeding fifty pounds.

Penalty for neglect.

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Commissioner to impound and sell Stock not so returned, unless in the meantime claimed, and all Charges paid.

III. And be it enacted, That after the first day of March, in each year, it shall and may be lawful for the Commissioner and his assistants in each and every district (but subject to such directions as the Governor may think proper to give in any case), to seize and drive to the nearest or most convenient pound all cattle and horses pasturing as aforesaid, whereof a return shall not by that time have been made by the person keeping or pasturing the same, in conformity with the provisions in that behalf hereinbefore contained, and the said cattle and horses to sell and dispose of at such pound, according to the ordinary course of sales of cattle and horses impounded for trespasses, unless, in the meantime, the owner thereof shall have claimed the same, and shall pay, by way of penalty, to the said Commissioner or poundkeeper, the sum of two shillings and sixpence for every head of such cattle and horses, together with the expenses chargeable thereon for poundage and food, which penalty and expenses the owner of such cattle and horses shall be liable to pay: Provided always, That upon such claim being made by a person who shall satisfy the said Commissioner or poundkeeper that he is the lawful owner of any such cattle and horses so impounded, and upon such payment as last aforesaid, the said cattle and horses shall be restored to such owner: And provided further, That all moneys realized by any such sale as hereby authorized, and all payments made as aforesaid, shall be forthwith transmitted by or through the said Commissioner to the Colonial Treasurer at Sydney, or the Sub-Treasurer at Melbourne, or to such other officer as may in that behalf be appointed by the Governor, and the surplus realized by any such sale as aforesaid, over and above the amount of such penalty as last aforesaid, and the expenses aforesaid, shall be paid to the owner of any such cattle and horses so sold, upon a certificate from the said Commissioner of his being such owner.

Proviso.

Returns to be verified by Declaration.

IV. And be it enacted, That the person making such return as aforesaid, shall verify the same by a declaration in the form or to the effect prescribed in the said Schedule (which declaration any justice of the peace is hereby empowered to administer) that the several matters and things contained in such return are true, to the best of his knowledge and belief; and if any person shall wilfully make therein any false statement as to any material particular, he shall be deemed guilty of a misdemeanour, and being convicted thereof, shall be liable, at the discretion of the Court, to fine and imprisonment, or either.

Commissioner to make annual Return to Colonial Treasurer, according to which Assessment to be charged.

V. And be it enacted, That the several Commissioners shall, at the beginning of each and every year, make an assessment on the stock pastured within their respective districts, and shall, on or before the first day of February then next ensuing, make a return thereof to the said Colonial Treasurer or Sub-Treasurer, or other person appointed as aforesaid, in the form, and containing the several particulars set forth in the Schedule to this Act annexed, marked with the letter B, according to which return the assessment hereinbefore mentioned shall, upon notice as hereinafter provided, be due and payable as aforesaid, by the persons therein assessed, except in so far as the same may be affected by any order made on appeal, under the provisions hereinafter contained.

Commissioner to give Notice to Parties of amount of Assessment.

VI. And be it enacted, That the said several Commissioners shall, not less than one calendar month previous to the time hereinbefore appointed for the payment of the said assessment, cause a notice in writing, in the form contained in the Schedule hereunto annexed, marked C, to be served upon each person assessed, or to be left at the resideuce of such person (if within the district), or with the superintendent or person having the charge of his stock (if the owner thereof shall not reside within the district), apprising him of the amount of the assessment with which he is liable, and requiring him to pay the said amount at the office of the said Colonial Treasurer, or of the said Sub-Treasurer, or other place appointed as aforesaid, before the first day of April next ensuing.

Persons aggrieved to appeal to Petty Sessions.

VII. And be it enacted, That any person assessed as aforesaid, who shall consider himself aggrieved by such assessment may appeal to the nearest Court of Petty Sessions: Provided that within ten days after the service of the said notice of assessment, the person assessed, or some one on his behalf, shall give to the said Commissioner a notice, in writing, of his intention to make such appeal, upon some day to be therein mentioned, not later than fourteen days after the date of such last-mentioned notice; and the justices sitting in Petty Sessions shall hear and determine the matter of the said appeal in a summary way, and shall make such order therein as to them shall seem meet, according to the true intent and meaning of this Act; and in case of the dismissal of the appeal, or the affirmance of the said assessment, wholly or in part, or in case the party assessed, or some person on his behalf, shall not appear to prosecute the appeal, the Court shall order and adjudge the person so assessed to pay, within ten days, the amount of such assessment, or of such part thereof as they shall have determined to be payable, into the office of the said Colonial Treasurer or Sub-Treasurer (or other place appointed as aforesaid), and also such costs and expenses as may be awarded to the said Commissioner by the said Court; and if such assessment, costs, and expenses be not paid within such time, the said

Court shall and may issue a warrant to levy the amount thereof by a distress and sale of a sufficient part of the stock, in respect of which such assessment shall have been made as aforesaid, and the surplus, if any, after payment of such assessment, costs, and expenses, shall be paid to the owner of such stock.

In cases of refusal or neglect to pay Assessment, &c., Colonial Treasurer to issue Warrant to levy Amount.

VIII. And be it enacted, That in case any person liable to pay any such assessment, as aforesaid, or in case any person so adjudged to be liable to payment of the said assessment or any part thereof, upon appeal, or notice of appeal, as aforesaid, shall refuse or neglect to pay the same upon the day appointed by such notice, or within the time appointed in cases of appeal as aforesaid, as the case may be, it shall and may be lawful for the said Colonial Treasurer, or Sub-Treasurer at Melbourne, or other person appointed by the Governor in that behalf, and he is hereby required forthwith, after the expiration of one month from the day or time so appointed, to issue a warrant, under his hand, to the Commissioner in whose district any person so refusing or neglecting to pay as aforesaid shall reside, directing the said Commissioner and his assistants to levy the amount which such person is so liable to pay, as aforesaid, together with an additional sum, equal to one-fifth part of that for which he is so liable, by way of penalty for such refusal or neglect, by a distress of a sufficient part of the stock, in respect of which the assessment shall have been made, as aforesaid; and such Commissioner and his assistants, to whom such warrant shall be so directed, are hereby authorized, under and by virtue thereof, to distrain, take, and drive to the nearest and most convenient pound, such and so many of the stock of the party in said warrant mentioned as shall be sufficient (when sold) to pay the amount of such assessment and penalty, and the costs and expenses of making such distress, and the payment of the maintenance of such stock, till sold; and the said stock (or a sufficient part thereof) to sell and dispose of at such pound, according to the ordinary course of stock impounded for trespasses (unless previously thereto the said assessment, penalty, costs, and expenses shall be paid); and the proceeds thereof shall be applied to the payment of the assessment, penalty, costs, and expenses aforesaid, and the surplus (if any) shall be paid to the owner or superintendent of the said stock: Provided, however, that when such warrant shall be so issued as aforesaid, in case the amount of the assessment and penalty therein mentioned shall be tendered to the person charged with the execution of such warrant, then and in such case the said person shall, and he is hereby authorized to accept and receive the said amount, and to give a receipt for the money so received, and to refrain from making and executing the said distress. Proviso.

Mode of recovering Penalties.

IX. And be it enacted, That all penalties, fines, and forfeitures, incurred or imposed under this Act, shall and may be sued for and recovered in a summary way, before any one or more justice or justices of the peace, under and according to the provisions of an Act made and passed by the Governor of New South Wales, with the advice of the Legislative Council thereof, in the fifth year of the reign of His late Majesty King William the Fourth, intituled "An Act to regulate summary proceedings before Justices of the Peace." 5 Will. IV., No. 22.

All Actions for things done under this Act to be brought within Six Months.

X. And for the protection of persons acting in execution of this Act: Be it enacted, that all actions for anything done under this Act shall be commenced within six calendar months after the fact was committed, and not otherwise; and notice in writing of such action, and the cause thereof, shall be given to the defendant one calendar month at least before the commencement of the action, and in every such action the defendant may plead the general issue, and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court, after such action brought, by or on behalf of the defendant, together with costs incurred up to that time; and if a verdict shall pass for the defendant or the plaintiff become nonsuited, or discontinue such action after issue joined, or if upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same as any defendant hath by law in other cases. Plaintiff shall not recover if tender of amends made before action brought, or a sufficient sum paid into Court after action brought.

Appropriation of Sums payable under this Act.

XI. And be it enacted, That all sums of money payable under and by virtue of this Act shall be paid to Her Majesty, Her heirs, and successors, for the maintenance of a police force and other local purposes beyond the said settled districts, and shall be applied thereto, in such manner as may from time to time be directed by any Acts to be passed by the Governor and Legislative Council of the said colony.

No Certiorari.

XII. And be it enacted, That no order, judgment, or other proceeding made, touching and concerning any of the matters aforesaid, or touching and concerning the conviction of any offender against this Act, shall be quashed or vacated for want of form only, or be removed or removable by *certiorari*, or by any writ or process whatsoever, into Her Majesty's Supreme Court of New South Wales.

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All Informations to be brought by Commissioners.

XIII. And be it enacted, That all prosecutions, suits, actions, informations, or complaints, to be brought under or by virtue of this Act, or upon or by reason of the breach of any of the provisions thereof, shall and may be so brought by any Commissioner for and on behalf of Her Majesty, Her heirs, and successors; but nevertheless such Commissioner shall and may be admitted to give evidence in or upon any such prosecution, suit, action, information, or complaint; and that upon any proceeding before justices of the peace under this Act, it shall not be necessary to have a formal information, but it shall be sufficient that the cause of complaint or proceeding shall be stated with reasonable distinctness, by affidavit or deposition.

All Prosecutions, &c., for Breaches of this Act to be brought within Twelve Months.

XIV. And be it enacted, That no prosecution, suit, or complaint, shall be brought under or by virtue of this Act, by reason of the breach of any of the provisions thereof, after the lapse of twelve calendar months from the occurrence of the matter or thing to which such prosecution, suit, or complaint may relate: Provided nevertheless, that nothing herein contained shall be deemed to extend to any information or prosecution for the wilfully making and subscribing any false declaration.

Interpretation Clause.

XV. And be it enacted, That in the construction of this Act the term "Commissioner" shall be deemed and taken to mean a Commissioner of Crown Lands appointed by the Governor for the time being; and the term "district" shall be deemed and taken to mean the limits within which a Commissioner of Crown Lands has been, or may hereafter be appointed to act; and the term "stock" shall be deemed and taken to mean and include sheep, cattle, and horses; and the word "sheep," when specifically used in this Act, shall be deemed and taken to mean and to include rams, ewes, wethers, and lambs; and the word "cattle," when specifically used in this Act, shall mean and include bulls, cows, oxen, heifers, steers, and calves; and the word "horses," when specifically used in this Act, shall mean and include horses, mares, geldings, colts, and fillies; and unless there be something in the subject or context repugnant to such construction, every word importing the singular number or the masculine gender only, shall be understood to include, and shall be applied to, several persons, matters, or things, as well as one person, matter, or thing, and females as well as males respectively.

Commencement of Act.

XVI. And be it enacted, "That this Act shall commence from and after the thirty-first day of December now next ensuing, and shall thenceforth continue in full force and effect for a period of five years and no longer.

CHARLES NICHOLSON, Speaker.

Passed the Legislative Council, this twenty-fifth day of August, One thousand eight hundred and forty-seven.

WM. MACPHERSON, Clerk of the Council.

In the name and on the behalf of Her Majesty, I assent to this Act.

CHAS. A. FITZROY, Governor.

Government House, Sydney, September 17, 1847.

SCHEDULES REFERRED TO.

(A.)

First day of January, 18 .

RETURN of Live Stock, kept and pastured by Mr. , in the District of beyond the Settled Districts of the Colony, rendered in conformity with the provisions of the Act of the Governor and Council, 11 Vict., No. 18.

STATION.	Person Superintending.	Estimated Extent of Run.	Stock on Station belonging to, or in charge of, Mr.		
			Horses, and how branded.	Cattle, and how branded.	Sheep, and how marked.

I, A. B., do solemnly declare that, to the best of my knowledge and belief, the foregoing is a true and faithful account of all sheep, horses, and cattle, of every kind kept or pastured by me, or under my charge, on the several stations above-mentioned, within the District of ; and I make this declaration by virtue of the Act of the Governor and Council of New South Wales, 11 Vict., No. 18.

A. B.,
Proprietor or Superintendent,
(as the case may be).

Declared before me, at ,
this day of , 18 .
J. P.

(B.)

First day of , 18 .

YEARLY RETURN of LIVE STOCK in the District of , with a Statement of the Amount of Assessment chargeable thereon, in accordance with the provisions of the Act of the Governor and Council, 11 Vict., No. 18.

Stations or Runs.	Persons Assessed.		Persons Superintending.	Estimated Extent of each Run.	Stock at each Station.			Amount of Assessment.			Total.		
	Lessees.	Licensed Occupants.			Horses, Threepence per Head.	Cattle, Threehalfpence per Head.	Sheep, One halfpenny per Head.	£.	s.	d.	£.	s.	d.

Signature of Commissioner.

(C.)

District of

No. ... | ...

Commissioner of Crown Lands' Office,
, 18 .

THE Amount with which you are assessed for the year from first January to thirty-first December, 18 , under the provisions of the Act of the Governor and Council, 11 Vict., No. 18, on the under-mentioned Stock pastured by you in this District, is as follows, viz.:—

	£.	s.	d.
.....Horses . . . . . at 3*d.* per head			
.....Head of cattle . . . . at 1½*d.* per head			
.....Sheep . . . . . at ½*d.* per head			
£			

which said sum of pounds, shillings, and pence, you are hereby required to pay at the Office of the Honourable the Colonial Treasurer, in Sydney (or at , as the case may be), before the first day of April next.

Or if you consider yourself as having any just cause for appealing against the said assessment, you will please to observe that notice of such appeal must be lodged with me within ten days from the date of the delivery of this notice, in the manner prescribed by the said Act. As witness my hand at , this day of , 18 .

Commissioner of Crown Lands.

To

No. LXI.—AN ACT for appointing COMMISSIONERS to examine and report upon disputes respecting Boundaries of Runs between the Claimants of Leases under Her Majesty's Order in Council of the Ninth March, One thousand eight hundred and forty-seven. [Assented to 17th June, 1848.]

Preamble.

WHEREAS, by an Act of the Imperial Parliament of Great Britain and Ireland, passed in the Ninth and Tenth year of the reign of Her present Majesty Queen Victoria, intituled, "An Act to amend an Act for regulating the sale of waste lands belonging to the Crown in the Australian colonies, and to make further provision for the management thereof," it was amongst other things enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet for the purposes therein recited, and any such rules and regulations again to repeal, renew, alter, and amend; and that all such Orders in Council should have the force and effect of law in the colonies aforesaid; And whereas certain rules and regulations were accordingly

9 & 10 Vict., c. 104.

NEW SOUTH WALES.

made and established by Her Majesty, by and with the advice of her Privy Council, on the ninth day of March, in the year of our Lord One thousand eight hundred and forty-seven, to be thenceforth observed, and to have the force and effect of law; And whereas the said rules and regulations were promulgated in the New South Wales "Government Gazette" on the seventh day of October, One thousand eight hundred and forty-seven; And whereas it is expedient and necessary, for the information of the Governor for the time being, to provide a mode of investigating and reporting on disputes respecting boundaries of runs between the claimants of leases under the above recited Order in Council: Be it therefore enacted, by His Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That it shall and may be lawful for the Governor of New South Wales to appoint from time time any number of fit and proper persons (not being Commissioners of Cvown lands) to be Commissioners for investigating and reporting on such disputes as aforesaid; and each such Commissioner shall have full power and authority to hear, examine, and report on all disputes between claimants of leases under Her Majesty's said Order in Council respecting boundaries of runs beyond the settled districts of the colony: Provided always, that it shall be lawful for the said Governor to remove any such Commissioner, and to appoint another in his stead as to His Excellency may seem meet.

Governor empowered to appoint and remove Commissioners; their powers and duties.

Oath to be taken by Commissioners.

II. And be it enacted, That every such Commissioner shall, before proceeding to act as such, take and subscribe before any bench of magistrates sitting in petty sessions, the oath set forth in the Schedule to this Act annexed, marked A, which oath, when so taken and subscribed, shall be transmitted by the clerk of such petty sessions to the office of the Colonial Secretary in Sydney, or of the Superintendent at Melbourne, as the case may be, there to be filed and kept on record.

Governor empowered to refer all disputes to Commissioners.

III. And be it enacted, That it shall be lawful for the Governor of the said colony, as often as His Excellency shall see fit, to refer any such disputed claims as aforesaid to any one of the said Commissioners, to the end that all such claims may be duly examined and reported on for the information and guidance of the Governor for the time being; and the said Commissioner shall proceed to hear, examine, and report on such disputed claims in manner hereinafter mentioned: Provided that nothing herein contained shall authorise any such Commissioner to receive or report on any such disputed claims, but such as shall be referred to him by the Governor as aforesaid.

Reference to Commissioner to be notified in "Gazette." Claimants to lodge memorial with Commissioner setting forth their descriptions, residences, and the circumstances under which such claim is made.

IV. And be it enacted, That whenever and so often as any disputed claim shall have been referred as aforesaid, public notification thereof shall be made in the New South Wales "Government Gazette," or in the Port Phillip "Government Gazette," if the land in dispute be situated in the Port Phillip district; and within sixty days from the date of such notification it shall be incumbent on the respective claimants to lodge with the Commissioner to whom such disputed claim has been so referred a memorial in writing, signed by the party lodging the same, which memorial shall set forth a true description of the party claiming, and of his usual residence, and of the land in respect of which a lease is claimed, and a true statement of the circumstances under which such claim is made: Provided always, that such memorial may at any time thereafter be amended by leave of the said Commissioner.

Commissioner to fix time and place of hearing; and to give notice to the Claimants.

V. And be it enacted, That at any time after the expiration of the period for lodging the memorials as aforesaid, it shall be lawful for the Commissioner to appoint the time and place at which he will proceed to hear the case so in dispute: Provided always, that the place of hearing shall be within the limits of the District where the land in dispute shall be situated; and provided further, that the said Commissioner shall cause a notice in writing to be left at or directed to the usual place of residence of each claiment who, by his memorial, shall have signified the same, at least one calendar month previous to the day fixed for the hearing of the case, apprising him or her of the time and place so fixed: Provided also, that the said Commissioner shall have power to enlarge the period so fixed, and to adjourn any such hearing from time to time as the justice of the case may seem to him to require.

Commissioners to decide on all Claims by the real justice and good conscience of the case.

VI. And be it enacted, That in hearing and inquiring into all claims to leases of runs, or any part of a run as aforesaid, every such Commissioner shall be guided by the real justice and good conscience of the case, without regard to legal forms and solemnities, and shall direct himself by the best evidence that he can procure or that is laid before him, whether the same be such evidence as the law would require in other cases or not; and in case he shall be satisfied that the person or persons so claiming a lease of the land in dispute, is or are entitled in equity and good conscience thereto, or to any portion thereof, he shall report the same to the Governor accordingly, and shall set forth the boundaries by which the said lands may be described, in every such lease: Provided always, that a view may be taken by the said Commissioner of the land in dispute, at the instance of either party: Provided also, that nothing herein contained shall be held to oblige the Governor to make and deliver any such lease as aforesaid, unless his Excellency shall deem it proper to do so.

Commissioner to be assisted by a Surveyor in making Boundaries, &c. Expense of Survey to be paid by the party against whom the Commissioner shall report.

VII. And the better to enable the said Commissioners, or any of them, to set forth the boundaries of any lands so in dispute: Be it enacted, That it shall be lawful for every such Commissioner to call to his assistance any surveyor, duly appointed by his excellency the Governor in that behalf; and it shall be the duty of such surveyor to survey, mark, and describe the boundaries of the said lands according to the direction of the said Commissioner: Provided always, that the expense of any such survey, marking, and description of such boundaries, shall be paid by the party against whom the said Commissioner shall report; and in default of such payment within twenty days from the date of an order to be made by the said Commissioner in that behalf, the amount so directed to be paid shall be levied by warrant, under the hand of the said Commissioner, by distress and sale of so much of the goods and effects of the party so failing to pay as may be necessary to satisfy the same.

Power of Commissioners to summon Witnesses. Persons swearing or affirming falsely shall be deemed guilty of Perjury.

VIII. And be it enacted, That it shall and may be lawful for every such Commissioner to issue summonses requiring all such persons as shall therein be named to appear before him at a place and time to be therein appointed, to give evidence as to all matters and things known to any such person repecting any claim as aforesaid, and to produce in evidence all deeds, instruments, or writings in the possession or control of any such persons, which they might by law be required and compelled to give evidence of, or to produce in evidence in any cause respecting the like matters depending in the Supreme Court of this colony, in so far as the evidence of such persons, and the production of such deeds, instruments, and writings shall be necessary for the due investigation of any such claims as aforesaid, depending before the said Commissioner, and that all such evidence shall be taken down, in writing in presence of the witnesses respectively giving the same, and shall at the time be signed by them, or in case of their refusing or being unable to sign, by some competent witness; and that all such evidence shall be given on oath or affirmation, which oath or affirmation it shall and may be lawful for every such Commissioner to administer to every person appearing before him to give evidence; and that any person taking a false oath or making a false affirmation in any case wherein an oath or affirmation is required to be taken by this Act, shall be deemed guilty of wilful and corrupt perjury, and being thereof duly convicted, shall be liable to such pains and penalties as by any laws now or hereinafter in force any person convicted of wilful and corrupt perjury are or shall be subject and liable to.

Witnesses not appearing or refusing to give Evidence.

IX. And be it enacted, That whenever any person who being duly summoned to give evidence before any such Commissioner as aforesaid, his or her reasonable expenses having been paid or tendered, and not having any lawful impediment allowed by the said Commissioner, shall fail to appear at the time and place specified in such summons, or after appearing shall refuse to be sworn, or make affirmation, as the law in each case may require, and to answer any lawful question, or to produce any deed, instrument, or writing, which he or she may lawfully be required to produce, or without leave obtained from the said Commissioner shall wilfully withdraw from further examination, then, and in every such case, the said Commissioner shall certify in writing under his hand, such default, or refusal, or wilful withdrawing, and thereupon it shall and may be lawful for the person at whose instance, or on whose behalf such summons as aforesaid was issued, to take out the process of the Supreme Court at Sydney or Melbourne, as the case may be, for summoning such last-mentioned person to appear before the Court from whence such process shall issue, at the time therein specified, summarily to show cause why he or she should not be attached, fined, or imprisoned for such default, refusal, or wilful withdrawing as aforesaid; and if such person having such last-mentioned summons duly served upon him or her, shall at the time therein specified, fail to shew cause for his or her said default, refusal, or withdrawing, to the satisfaction of such Court, it shall and may be lawful for such Court, on proof by the return of the officer serving the same, or by affidavit of the due service of the said summons to give evidence, and of the said summons to show cause, and on production of a copy of the said certificate under the hand of the said Commissioner, to grant a warrant to apprehend the person so failing to show cause, and to commit him or her to prison, there to remain without bail, until he or she shall submit to be sworn, or to make affirmation as aforesaid, and to answer all such questions, and to produce all such deeds, instruments, or writings as aforesaid, in so far as shall lawfully be required of him or her, and further to set such fine upon such person as the Court shall think meet; and, unless the same shall be forthwith paid, to grant process for levying the amount thereof upon the property of such person; and every such fine, or the amount thereof, which shall be levied shall forthwith be paid to the Prothonotary of the said Court at Sydney, or Deputy Registrar of the Supreme Court at Polt Phillip, as the case may be, and the said Prothonotary or Deputy Registrar shall forthwith, out of the amount of such fine, pay to the person at whose instance the sentence imposing the fine was obtained, the expenses incurred in summoning the person so fined, as aforesaid, and in obtaining such sentence, as taxed by the said Prothonotary or Deputy Registrar, and shall account for and pay over the residue of such fine, in like manner as he is by law required and directed to account for and pay over fees or fines received by him as Prothonotary or Deputy Registrar of the said Courts respectively.

NEW SOUTH WALES.

Fees to be paid by claimants to Commissioners before the case is heard. Commissioners shall pay the same into the Colonial Treasury.

X. And be it enacted, That there shall be paid to the Commissioners, for and on behalf of Her Majesty, Her heirs and successors by every claimant, and opposing claimant as aforesaid, before the case is heard, the several fees specified in the schedule hereunto annexed, marked B, and the said Commissioners shall duly account for all fees so paid to them as aforesaid, and shall pay the same into the Colonial Treasury at Sydney or Melbourne, as the case may be, at such times and in such manner as the Governor may by any regulations in that behalf appoint; and all such sums so received shall be applied as hereafter directed to the purposes of this Act, and the overplus, if any, to the public uses of the said colony, and in support of the government thereof, as by any Act of the Governor and Legislative Council may be directed.

Remuneration to be received by Commissioners.

XI. And be it enacted, That each of the said Commissioners shall and may receive, for his own use, for every final report made by him in manner aforesaid, upon a disputed claim to a lease, the sum of fifteen pounds; and it shall be lawful for his Excellency the Governor to order and direct, by warrant under his hand, that every such sum shall be paid from and out of the public treasury of the said colony.

CHARLES NICHOLSON, Speaker.

Passed the Legislative Council, this fifteenth day of June, One thousand eight hundred and forty-eight.

WM. MACPHERSON, Clerk of the Council.

In the name and on the behalf of Her Majesty, I assent to this Act.

CHAS. A. FITZROY, Governor.

Government House, Sydney, June 17, 1848.

SCHEDULES REFERRED TO.

(A.)

COMMISSIONER'S OATH.

I, , do solemnly swear that faithfully, diligently, and impartially, to the best of my ability, I will execute the duties appointed under and by virtue of a certain Act of the Governor of New South Wales, with the advice of the Legislative Council of the said colony, made and passed in the eleventh year of the reign of Her Majesty Queen Victoria, intituled, "An Act for appointing Commissioners to examine and report upon disputes respecting boundaries of Runs between the Claimants of Leases, under Her Majesty's Order in Council of the ninth March, One thousand eight hundred and forty-seven;" and that I will not myself, directly or indirectly, take or receive, or knowingly permit any other to take or receive, any fee or reward for anything done or performed under and by virtue of any of the provisions of the said Act, other than and except such as is authorised by the said Act.

So help me God.

A. B.

Sworn before us, this day of , 184 .

J. P.
J. P.

(B.)

FEES TO BE PAID BY CLAIMANTS.

	£	*s.*	*d.*
Amount to be paid by each of the claimants before the case is heard .	7	10	0
For every summons for witness, each summons containing not more than four names, by the party requiring the same	0	2	6
For every witness examined, or document or voucher produced in evidence, by the party on whose behalf examined or produced . . .	0	2	6
For taking down the examination of any witness.	0	2	6
For every 100 words after the first 100, additional	0	1	0
For every certificate granted by a Commissioner, of default, refusal to answer, or wilful withdrawing of any witness	0	5	0

Colonial Secretary's Office, Sydney, March 29, 1848.

OCCUPATION OF CROWN LANDS,

Within the Settled Districts.

1. In pursuance of Her Majesty's Order in Council of 9th March, 1847, his Excellency the Governor, with the advice of the Executive Council, has been pleased to establish, subject to the approval of the Right Hon. the Secretary of State for the Colonies, the following regulations for the occupation of Crown lands within the settled districts of the colony, as they are now or may hereafter be defined.

Holders of Purchased Lands may Pasture Stock on vacant Crown Lands free of Charge.

2. The holders of purchased lands within the settled districts will be permitted to pasture their stock, free of charge, on any vacant Crown lands immediately contiguous to their

respective properties, provided they do not erect any hut or building thereon, or clear, enclose, or cultivate any portion thereof; but it is to be distinctly understood, that such permission will in no way interfere with the right of the Government at any time to dispose of the lands either by sale or by lease.

This permission constitutes only a Commonage right.

3. The permission to pasture stock on vacant Crown lands free of charge will not carry with it any other than a commonage right, to be enjoyed alike by all the holders of adjacent purchased lands. Persons desiring to secure the exclusive right of pasturage over any particular Crown lands must obtain a lease by purchase, in one or other of the modes hereinafter described.

Lands will be let on Annual Lease, and for pastoral purposes only.

4. Within the settled districts lands will be let, for pastoral purposes only, on annual lease, in sections of six hundred and forty acres each, as charted in the Surveyor-General's Office, and at a yearly rent not lower than ten shillings per section.

Size of Lots.

5. No portion of land, consisting of less than six hundred and forty acres, or one square mile, will be let on lease, except in special cases, which may render expedient a departure from this rule; and in any case where there is a broken section, with water frontage, the section behind will be added to the lot.

What lands will not be Let.

6. No sections lying either in whole or in part within the distance of five miles from either of the cities of Sydney or Melbourne, or within the distance of two miles from any town shown by the last census for the time being to contain more than one thousand inhabitants, nor any land set apart as the sites of towns or villages, or measured for sale as "Special Country Lots," nor any of the lands comprised within the Church and School Estates, will be open to lease under these regulations.

Duration of Lease.

7. The annual leases issued under these regulations, will be for the calendar year commencing on the first day ofJanuary; and all leases granted, whether taking effect from the first day of the leasing year, or from any subsequent date, will alike expire on the 31st December.

Lands demised for pastoral purposes only; but with permission to cut Timber.

8. The leases will carry with them the exclusive right of occupancy of the land for pastoral purposes only, during the period they shall remain in force; but a clause will be inserted in each lease, permitting the lessee to cut such timber, with the exception of cedar, as may be required for domestic uses, for firebote, fencing, stockyards, or other conveniences for the use of the land, for the purposes specified.

Leases not be Assigned.

9. The leases will not be assignable, nor shall any portion of the lands held thereunder assigned or sub-let, under penalty of absolute forfeiture of the lease.

No compensation for Improvements.

10. Lessees of lands under these regulations will not be entitled to any compensation whatsoever for any improvements they may effect on the lands.

Lands open to Sale. If sold, Lease to be surrendered.

11. The lands included in any lease will be open to purchase under the ordinary regulations, and in the event of their being sold, or required for any public purpose, must be surrendered, as heretofore, by the lessee, upon his receiving one month's notice; but in such case, the balance of the price of the lease for the time it has to run will be refunded to him.

Leases renewable Annually. Terms subject to revision.

12. Subject to the approval of his Excellency the Governor in each case, the leases held under these regulations may be renewed at the same yearly rent as that paid for the preceding year. Such renewals will be ordinarily sanctioned by the Governor, unless the lands be required for sale, or for any public purpose, or for the satisfaction of any new claims which may arise under the pre-emptive right hereinafter conferred on purchasers of Crown lands. It is, however, to be distinctly understood that his Excellency reserves to himself the full power of periodically revising and altering the terms on which the leases will be granted or renewed, as the public interests may from time to time appear to him to require.

Period for renewal of Leases.

13. Persons desiring to renew their leases under the preceding clause must make application to the Colonial Secretary at Sydney, or to the Superintendent of Port Phillip at Melbourne, if the lands be situated in that district, not later than the 31st August, in the year preceding that for which the leases will have effect, and if allowed to do so, must pay the rent into the Colonial Treasury not later than the 30th day of September in the same year.

NEW SOUTH WALES.

Leases not renewed will be put up to Auction.

14. All leases for the ensuing year which shall not be renewed by the 30th of September preceding, will, whether applied for or not, be put up to auction in or about the last week in the month of November in each year, in the manner described in a subsequent part of these regulations.

Leases once advertised obtained only by competition.

15. No lease which has once been advertised for sale can be obtained by any person until it has been submitted to competition.

Pre-emptive right to holders of Land in fee simple. Even sections only will be computed. Less than 640 acres will not confer pre-emptive right.

16. The holders in fee simple of any lands within the settled districts, whether acquired by purchase or grant, will be allowed, subject to the conditions hereinafter prescribed, to obtain leases of any vacant Crown lands adjacent to their respective properties, without competition, at the fixed price of 10*s.* per section of 640 acres, and to the extent of three times their own purchased or granted lands, if there be so much vacant Crown land available. It is, however, to be understood that the rule above laid down, that land will not be let in portions less than 640 acres, will not be departed from, in order to make up the exact quantity which an individual may be entitled to claim under this clause; and no person will be deemed entitled to the pre-emptive right hereby conferred, who does not hold purchased or granted lands in one block to the extent of at least one section.

Additional Land obtained only at Auction.

17. If the holders of land in fee simple desire to lease a greater number of sections than they are entitled to claim under the pre-emptive right conferred by the preceding clause, they can only do so by purchase at auction.

As to Lands claimed by more than one Party.

18. In cases in which the same portions of land may be claimed by more than one party under the pre-emptive right conferred by clause 16, the Government will, at the expiration of the term allowed for preferring such claims, announce to each claimant the names of his competitors, in order that he may arrange with them respecting the division of the lands in the manner pointed out in the next clause.

Where more than two claimants claims, to be settled by private arrangement. If only two claims, to be referred to Arbitrators.

19. If there be more than two claimants, the division of the lands amongst them may be settled by private arrangement; and on the result of such arrangement being communicated to the Government within the time prescribed in the following clause, in a document signed by all the contending parties, the lands will be apportioned and let accordingly; but if there be only two claimants, the question at issue between them may be determined by arbitration in the manner following:—Each party shall name an arbitrator, and the two arbitrators shall have power, if necessary, to elect an umpire, and according to the award of such arbitrators or umpire the land in dispute will be apportioned and let. In considering the respective claims of the contending parties, it is desirable that the arbitrators and umpire should be guided by the extent of purchased or granted land held by each, so as to apportion the vacant Crown land in reference to such extent, by the previous occupation of the land in dispute according to the usage of the colony as part of the run of either of the parties—and the access to water for its beneficial occupation.

If no division agreed upon, Leases will be put up to Auction.

20. If, at the end of one month from the date of the letter announcing to the several claimants the names of their competitors, the Government shall be uninformed of a division of the lands having been made either by agreement or by arbitration, the leases of the lands so circumstanced will be offered for sale by auction, and the public admitted as competitors for the same.

Holders of granted Lands to enjoy the same privileges as holders of purchased Lands.

21. The holders of granted lands within the settled districts, on which the quit-rent has been redeemed, will, for the purposes of these regulations, be placed on the same footing in all respects as the holders of purchased lands. The holders of granted lands on which the quit-rent has not been redeemed, are not considered admissable, under the terms of the Order in Council, to the privilege of pasturing their stock on Crown lands free of charge as above described, but they will be allowed to exercise the pre-emptive right mentioned in clause 16.

As to Lands of the settled class under Squatting Licence.

22. Lands which have been brought by the Order in Council within the settled class, but which have been hitherto held under squatting licences for pastoral purposes, will be let to the present licensed occupants thereof, on yearly lease, at the fixed rent of one pound per section, so long as they shall not be required for sale or for any public purpose, or be applied for on lease by any holder of purchased lands in the immediate neighbourhood. But whenever any

holder of purchased land in the immediate neighbourhood shall either put forward his claim to the number of sections which he may be entitled to rent under the pre-emptive right conferred by clause 16 of these Regulations, or shall make application for a lease of any additional sections to be offered for sale by auction, such sections will not be relet to the previous occupant, but will be withdrawn from his holding, in order that they may be demised to the person claiming the exercise of his pre-emptive right respecting them, or be let by auction, as the case may be. In respect, however, to any sections thus taken out of the previous occupant's holding, in order that the leases of them may be offered for sale, such previous occupant will be allowed to continue to use them for pastoral purposes until the day of sale, and in the event of their not being then purchased, to renew his lease for the current year at the rate above mentioned.

Lands not chartered in sections, how to be Let.

23. Any lot of land within the meaning of the preceding clause, which may not have been chartered in sections in the Surveyor-General's Office, will be let, until so chartered, to the present licensed occupant thereof in one block, the amount of rent being determined by the computed number of sections therein contained, according to an estimate to be submitted by the occupant, and approved by the Surveyor-General, or the surveyor in charge at Melbourne, according as the lands may be situated in the Sydney or the Port Phillip district.

Sections containing improvements, let only to previous occupant in certain cases.

24. Of the class of lands referred to in clause 22, no section containing valuable improvements, nor any of the sections contiguous thereto, will, for the present, be open to lease under these Regulations, to any other persons than the present licensed occupants thereof.

Time and mode of claiming exercise of pre-emptive right.

25. Persons desirous of exercising either of the pre-emptive rights conferred by clauses 16 and 22 of these Regulations, will be required to make application accordingly, in the one or other of the forms annexed (A or B), as the lands may be of the one or other of the classes referred to, describing as accurately as possible the sections which they desire to rent, and also specifying the purchased or granted lands, or the licensed runs, in respect of which they claim to exercise the pre-emptive right. These applications must be lodged at the Surveyor-General's Office in Sydney, or at the office of the surveyor in charge at Melbourne, on or before the 31st day of August in the year preceding that for which the desired leases will have effect.

Leases obtained by pre-emption will be notified. If rent not paid within one month, they will be put up to Auction.

26. All leases accorded by the Government under the pre-emptive rights conferred by clauses 16 and 22 of these Regulations, will be notified in the "Government Gazette," and if, within one month from the date of such notification, the rent for the same shall not have been paid into the Treasury, the leases will be offered for sale by auction.

Lands not taken by pre-emption will be let at Auction.

27. All lands, to the leases of which no pre-emptive right shall have been exercised within the periods above specified, will be open to lease, and be offered for sale by auction, on the application of any person requiring the same.

Application for sale of Leases by Auction.

28. Applications for the lease, at auction, of particular portions of Crown lands, are to be addressed, as heretofore, to the Surveyor-General in Sydney, or to the surveyor in charge at Melbourne, in the form annexed, marked C.

General sale in November of each year.

29. In or about the last week in the month of November, in each year, there will be a general sale by auction, at which will be put up all leases for the ensuing year which may have been applied for under the preceding clause, or which may have been claimed but not obtained under the pre-emptive right, or of which a right of renewal may have been granted but not exercised, as well as any leases which the Government may think it expedient to bring forward at its own instance.

Special Sales on application.

30. Leases applied for under clause 28, subsequently to the general sale, will be put up at auction as demanded, the term of the lease in every such case being the unexpired portion of the calendar year, as explained in clause 7.

One Month's notice of each Sale.

31. No sale of leases under these Regulations will take place without one month's notice thereof having been given by advertisement in the "Government Gazette."

Leases sold at places of Petty Sessions.

32. The sales will be held at the principal places of petty sessions of the police districts in which the lands may be respectively situated.

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Upset price.

33. The upset price of each lot will be ten shillings per section of six hundred and forty acres, or five shillings if half the current year shall have expired.

Bidding may be refused, or lot withdrawn.

34. The Government reserves to itself the right to refuse the bidding of any one, as well as to withdraw any lot from sale; but this right will never be exercised except for a sufficient and assignable cause.

Full price to be paid down.

35. The full price bid for each lot must be paid down on the day of sale, failing which, the land will be leased on application, as described in clause 38.

Leases issued from the Treasury.

36. As early as possible after the day of sale, leases will be issued from the Colonial Treasury at Sydney or Melbourne, accordingly as the lands may be situated in the one or other of those districts, to those persons who have duly paid their purchase money.

Lots not bid for obtained at upset price.

37. Any lot of land, the lease of which may have been offered for sale at auction and not bid for, may be obtained on lease by any person of approved character, on payment at the Colonial Treasury of the upset price of ten shillings per section, or of half that price, if half the current year has expired.

Lots of which price not paid, obtained at that price without competition.

38. The foregoing rule will also apply to those lands, the leases of which have been bid for, but the price of which has not been paid on the day of sale. In such case, however, the sum to be paid for the lease will be, not the upset price, or its half, but the highest price bid for the lot at the sale, or its half, if half of the year shall have expired.

Lots not purchased may be again put up.

39. Lots open to purchase under either of the two preceding clauses, but not taken, may be put up again at auction, either on the application of individuals, or at the instance of the Government.

Leases first issued for year commencing 1st January, 1849.

40. The first leases issued under these regulations will be for the year commencing on the 1st January, 1849.

As to Lands held under existing Licenses.

41. All licenses now held, in terms of the regulation of the 21st August, 1841, which will expire during the present year, may be renewed for the remainder thereof, on payment of rent at the same rate as that paid for the existing licenses, such payment to be made on taking the licenses up at the Treasury.

Persons occupying Crown Lands contrary to these Regulations will be proceeded against.

42. It is distinctly to be understood, that as soon as these regulations shall have been brought into effect, all persons who may be found in occupation of Crown lands within the settled districts, contrary to the plain intent and meaning of these regulations, will be immediately proceeded against under the provisions of the Act of Parliament, 9 and 10 Vict., cap. 104.

Regulations of 1841 annulled.

43. The regulations for the occupation of Crown lands within the boundaries of location, dated 21st August, 1841, are hereby cancelled.

By his Excellency's command,

E. Deas Thomson.

Schedule A.

Form of Application to be used by the Holder of purchased or granted Lands in the Settled Districts, when claiming to exercise the pre-emptive right.

Place *
Date

Sir,

In pursuance of the Regulations of 29th March, 1848, respecting the occupation of Crown lands within the settled districts, I do hereby apply to be allowed leases of the several sections of Crown lands hereunder described, at the fixed rate of 10*s.* per section.

The land, in virtue of which I claim to exercise a right of pre-emption, is situated as follows, and is now in my possession, namely:—County of parish of situated † containing acres, being the land ‡ to § and for which a deed of grant has issued in favour of.‖

I have the honour to be,
Sir,
Your most obedient servant,

To ¶

Description of the Sections applied for.

* State nearest post town. † State general situation of the land. ‡ "Sold" or "granted" as the case may be.
§ State name of purchaser or promisee. ‖ State name of grantee.
¶ To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.

SCHEDULE B.

APPLICATION to be used by the Holder of a Squatting License in respect to portions of his Run, situated in Settled Districts.

Place *
Date

SIR,

IN pursuance of the Regulations of 29th March, 1848, respecting the occupation of Crown lands within the settled districts, I do hereby apply to be allowed leases of the several sections of Crown lands hereunder described, at the fixed rent of one pound per section.

The run, in virtue of which I claim to exercise a right of pre-emption, is as follows, and is now my licensed occupation, namely:—

Commissioner's district
Name of run
General locality

I have the honour to be,
Sir,
Your most obedient servant,

To†

State as accurately as possible the sections required according to the charting in the Survey Office.
If the lands be not charted in sections, the boundaries of the entire extent of land claimed should be given, with an estimate of its area, in sections or square miles.

* State nearest post town. † To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.

SCHEDULE C.

FORM of ordinary APPLICATION for a Lease of Crown Lands within the Settled Districts.

Place*
Date

SIR,

IN pursuance of the Regulation of 29th March, 1848, respecting the occupation of Crown lands within the settled districts, I have the honour to request that the leases of the portions of Crown lands hereunder described may be put up to public auction.

I have the honour to be,
Sir,
Your most obedient servant,

To†

Description of the Lands referred to.

County of
Parish of
Situated ‡
and Bounded, &c. §

* State nearest post town. † To the Surveyor-General in Sydney, or to the Surveyor in charge at Melbourne.
‡ State general locality. § State the boundaries as accurately as possible, with reference to section lines.

Enclosure 2 in No. 9.

Colonial Secretary's Office, Sydney,
December 29, 1848.

SIR,

HIS Excellency the Governor having been pleased to appoint you Chief Commissioner of Crown Lands for the Middle District of this colony, I do myself the honour to convey to you the following information and general instructions for your guidance.

1. Your salary will be at the rate of 600*l.* per annum, commencing from the 1st proximo, on which day your appointment will take effect.

2. Your establishment will consist of a clerk of the second class, a clerk of the third class, and three extra clerks; and the following gentlemen are to be transferred to your office from this Department, viz.:—

NEW SOUTH WALES.

Mr. A. Orpen Moriarty, clerk of the second class, 150*l.* per annum.
Mr. George J. Still, clerk of the third class, at 109*l.* per annum.
Mr. John Birch, extra clerk, at 6*s.* per diem. And
Mr. Henry Burne, extra clerk, at 100*l.* per annum;
leaving one extra clerk to be appointed at 100*l.* per annum.

3. The entire expense of your Department will be defrayed from the Territorial Revenue.

4. I will immediately cause to be transferred to you the following books and documents at present in this office, viz.:—

1. All demands for leases under Her Majesty's Order in Council of March 9, 1847, and all correspondence relative thereto.
2. All the caveats hitherto received against the issue of such leases.
3. All tenders for new runs and for forfeited or vacated runs, and all correspondence relating thereto.
4. Register of demands for leases.
5. Register of tenders for new runs.
6. Four letter-books containing correspondence from this Department with Commissioners of Crown Lands.
3. Two letter-books containing correspondence with private individuals respecting runs, &c., from June, 1844, to the present date.
8. One letter-book containing correspondence with individuals respecting tenders for runs.

5. All the Crown Commissioners in the Middle District, now 16 in number, will correspond with, and receive their instructions on all matters from you, to which effect they have been duly instructed by a Circular Letter of this date.

6. All future correspondence from private individuals respecting cases, tenders, &c., in fact, generally on all matters of detail connected with Crown Lands beyond the settled districts will also be addressed to you, in terms of the Public Notice of the 26th instant.

7. You will be charged with the application of the law and the regulations of Government on Crown Land questions, applying to this department, as the heads of departments do, in cases where you require the instructions of his Excellency the Governor either in the interpretation of existing regulations, or the promulgation of new principles, or generally in any matter of difficulty.

8. The Board for the disposal of Tenders for Runs, of which you have been appointed a member, will exercise the same functions as hitherto.

9. You will submit to the Governor, through this office, the Reports of the Board, &c., and apprise the parties interested of his Excellency's decision.

10. The future leases of Crown Lands will be prepared, and the counterparts kept in your office; and all correspondence respecting the valuation of runs will be conducted by you, subject to any general instructions from this Department.

11. The future Commissioners for investigating disputed boundaries will receive their instructions through you, and will forward their reports to you, to be by you submitted, with your remarks, for the Governor's final decision.

12. Very much of the correspondence in this office with Crown Commissioners will no doubt eventually find its way into your office, but will perhaps be better accomplished by degrees, as required, than by at once attempting to search out a large mass of papers which, in the first instance, might prove embarrassing to you.

13. As it has not been practicable to procure a public building for your office, his Excellency sanctions your renting a private house for that purpose, on terms which will be hereafter communicated to you.

14. I beg to add, that a Commission will be immediately issued in the usual form, appointing you a Commissioner of Crown Lands.

I have, &c.,

George Barney, Esq.,
Chief Commissioner of Crown Lands.

(Signed) E. Deas Thomson.

No. 10.

(No. 11.)

No. 10.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, February 1, 1849.

(Received June 27, 1849.)

(Answered July 31, 1849, No. 130, page 82.)

My Lord,

It having been brought under my notice by the Crown Land Commissioners of the Gwydyr, Darling Downs, and Moreton Bay districts, that large tracts of country situated to the northward and westward of those districts were occupied with stock to a considerable extent, the proprietors of which paid no licence fees to the Crown, as, on account of their being beyond the reach of the protection and control of the Commissioners, they had never been recognised as within the boundaries of their districts, I deemed it my duty to bring the subject before my Executive Council, with the view of obtaining their advice as to the proper steps to be taken to bring these parties within the

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reach of protection and control, and to enable the Government to levy the legal amount of assessment on their stock.

2. The result of the deliberations of the Council was, as your Lordship will perceive by the accompanying copies of the minutes of their proceedings, that the Council advised that the country referred to should be divided into three new Commissioners' districts, this number being rendered necessary by the great extent of country reported to be depastured over by unlicensed occupants, and the large amount of stock in their possession.

3. I have accordingly now to report that the necessary preliminary steps for defining these districts having been taken by the Surveyor-General, as shown by the annexed map I have caused the districts of Wide Bay, Barnett River, and Maranoa to be proclaimed, and that I have, subject to your Lordship's approval, appointed John Carne Bidwell, Esq., Wide Bay District; Maurice C. O'Connell, Esq., Burnett District; and John Henry Durbin, Esq., Maranoa District; three gentlemen well qualified for the appointments to be Commissioners of Crown Lands for the districts placed opposite their names in the margin.*

* Wide Bay District.
Burnett District.
Maranoa District.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c. (Signed.) C. A. FITZROY.

Enclosure 1 in No. 10. Encl. 1. in No. 10.

NEW SOUTH WALES.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 31st October, 1848, relative to the formation of Three new Commissioners' Districts, to the North and West of the Darling Downs District.

Extract from Minute, No. 48/41.

Members present:—

His Excellency the Governor.
The Hon. the Commander of the Forces.
The Hon. the Colonial Secretary.
The Hon. the Attorney-General.
The Hon. the Colonial Treasurer.

His Excellency the Governor lays before the Council the Surveyor General's letter of the 10th October, 1848, and Mr. Commissioner Rolleston's letter of the 7th September, 1848. Appendix No. 3. Appendix No. 2.

After an attentive consideration of the statements made in Mr. Rolleston's letter now before them, and in that which was brought under their consideration on the 14th September last, respecting the extensive occupation of the country in question, the number of sheep and cattle already pastured thereon, and the prospect of collisions between the whites and the aborigines, the Council feel it their duty to recommend that the three new districts of Wide Bay, the Burnett River, and the Maranoa River, as shown on the Surveyor-General's map should be forthwith established, and that Commissioners should be immediately appointed thereto. The Council, however, consider it expedient that the limits of all Commissioners' districts should henceforth be defined on every side, and they accordingly recommend that the northern boundaries of the Burnett and Maranoa districts should be determined, and also the western boundary of the Gwydir district. Appendix No. 1.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

Sub-Enclosure 1 to Enclosure in No. 10. Sub-Encl. 1 to Encl. in No. 10.

APPENDIX 1.

Mr. Commissioner ROLLESTON to the COLONIAL SECRETARY.

Crown Lands Office, Darling Downs,
July 4, 1848.

SIR,

WITH a view of directing the attention of his Excellency the Governor to the large extent of country lying to the north of this district, forming the system of the "Burnett" and Wide Bay waters, and now occupied with stock to a considerable extent, I do myself the honour to transmit a rough sketch of the country, showing the number and position of the runs already taken up.

There are about 30 stations formed outside of this and the Moreton Bay districts, mostly taken up within the last year or two, the occupiers of which pay no licence fees to the Crown, never having been recognized within the boundaries of a Commissioner's district.

The stock upon these runs amounts, on the nearest calculation I can make, to upwards of 200,000 sheep, besides cattle and horses; and fresh additions are daily being made to the number, so that on the 1st of January, 1849, I have no doubt that assessment might be made

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on fully 300,000 sheep; and a proportionate fund be added to the Crown revenue from the leases that would be tendered for, provided a district was formed and a Commissioner appointed to it.

I would further beg to call his Excellency's attention to the number of runs that are being occupied to the westward of this district, beyond my power of protection and control, namely, on the waters of the Balonne and the FitzRoy Downs, where a very large district is likely soon to be occupied.

No western or northern limits have as yet been proclaimed, to my district; but I have refused to recognize any stations beyond the main range dividing the waters of the "Condamine" and "Burnett" rivers to the north, and beyond the junction of the Dogwood Creek with the Condamine to the west, from which spot the river loses the name of the Condamine and takes that of the "Balonne."

Say 270 miles.

The district of Darling Downs so limited comprises upwards of 250 miles in length from north to south, by about 100 miles in breadth from east to west.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) CHRIS. ROLLESTON, Commissioner.

Sub-Encl. 2 to Encl. in No. 10.

Sub-Enclosure 2 to Enclosure in No. 10.

APPENDIX No. 2.

Mr. Commissioner ROLLESTON to the COLONIAL SECRETARY.

SIR, Crown Lands Office, Darling Downs, September 7, 1849.

IN my letter to you of the 4th July last, I had the honour to call the attention of his Excellency the Governor to the occupation of the country lying to the westward of this district forming the system of the "Balonne" and its tributaries, extending from the FitzRoy Downs to the river Barwan.

Since that time several applications for leases of runs have been returned to you by Mr. Commissioner Bligh, as well as by myself, with reports to the effect that the runs were situated beyond our respective limits of protection and control.

My object, therefore, in bringing this subject again under your notice, is to state that if his Excellency thinks it desirable to entertain such applications rather than permit the unauthorized occupation of the Crown lands, I am prepared (as far as my duties here will allow me) to place my services at his Excellency's disposal, in order to facilitate the granting of leases for that portion of the country which lies to the north-west of the Condamine river, and is known as the FitzRoy Downs.

I plainly perceive that the withholding of leases from those persons who push out to these new counties will be a source of future embarrassment to the Government; it will not have the effect of abating the intrusions, nor of checking in the slightest degree the occupation of the country; on the contrary, many will calculate upon the free use of the land, exempt from rent or assessment for some time to come, and afterwards set up claims to which they will demand concessions; indeed, the anomalous position in which these persons will find themselves placed by a refusal to recognize their tenders, will only have the effect of deterring them from making those improvements which conduce to their civilization and comfort, and of opening a way for the agitation of a future grievance.

In the absence of any direct and public caution to the contrary, I know that strong hopes and expectations are entertained that the new land orders will be wrested in favour of those who go out and occupy new counties, and that their claims to leases will be respected as soon as the control of the Government reaches them, irrespective of any other tenders that may be sent in.

The extent to which the unauthorized occupation of the "Burnett" country has been carried on and connived at, will, I foresee, oppose very great difficulties in the way of the introduction of the new Land Regulations, and the adjustment of the runs in that district; and I am afraid that the Government will find itself placed in a most disadvantageous position with regard to the squatters there, and will encounter great opposition in the attempt to adapt the new system to runs occupied under the old.

Whilst, however, it may not be considered advisable at the present time to incur the expense attendant upon the formation of a new district at the FitzRoy Downs, and the establishment of a Commissioner there, still it is possible that his Excellency may be desirous, for the considerations I have mentioned, that the operation of the new Land Orders should keep pace, as far as practicable, with the occupation of the country, and the demand for leases in that direction.

It is under these circumstances, therefore, and with a view of obviating the inconveniences which I have pointed out, that I feel induced to offer to extend my control as far as the FitzRoy Downs until such time as they may become sufficiently occupied to bear the expense of a separate establishment, and be thought worthy of being proclaimed an independent district.

There is still one other point to which I would beg to direct his Excellency's attention, as showing a further necessity for the control and protection of the Government; it is to the number and hostile character of the native tribes frequenting the dense scrubs which occupy the banks of the Lower Condamine and Balonne, and intersect the whole of the FizRoy Downs country.

Already, I am sorry to say, fatal collisions have taken place between the blacks and whites in that direction.

In one instance, at a station lately formed by Mr. Bligh in Frederick's Creek, on the eastern borders of FitzRoy Downs, an attack was made by the natives, wherein one white man was killed, Mr. Bligh himself badly speared, and a considerable number of sheep taken and destroyed; the station has since been deserted by Mr. Bligh for fear of further damage.

Another instance occurred at Mr. Isaac's, the most remote licensed run in this district, and nearest to Mr. Bligh's, which was attended with loss of life to one shepherd, and such great injuries to another from spear wounds, that he is not expected to recover, besides the loss of a large flock of sheep.

This attack, which appears to have been a very daring one, and made by great numbers of the natives, was only defeated by shooting down all the ringleaders amongst them. Severe retaliation, I believe, was also exercised upon the blacks in their flight.

A third instance happened at the station of Captain Banney in the same neighbourhood; no loss of life fortunately attended this attack, but the whites were driven from the station, and the stores and everything upon it were pillaged and destroyed.

These reports have only just been made to me, and I am about to start to make inquiries into the circumstances.

I must not omit to mention, that it would be necessary to increase my establishment by two extra men and two horses, to enable me to perform the duties of so extended a district.

I must apologise for the length at which this letter has arrived, the subject seemed to me an important one, and I hope that the way in which it is brought under his Excellency's notice will not be considered uncalled for or obtrusive.

I have, &c.,

The Hon. the Colonial Secretary, &c. &c.

(Signed) Chris. Rolleston, Commissioner.

Sub-Enclosure 3 to Enclosure in No. 10.

Sub-Encl. 3 to Encl. in No. 10.

No. 48/436. Appendix 3.

The Surveyor-General to the Colonial Secretary.

Sir, Surveyor General's Office, Sydney, October 10, 1848.

I have the honour to acknowledge the receipt of your letter, No. 48/455, of 4th October, informing me of his Excellency the Governor having submitted to the Executive Council my letter of the 22nd August last, on the subject of the northern and western boundaries of the district of Darling Downs, as well as one from Mr. Commissioner Rolleston, accompanied by a sketch; also a Despatch from the Secretary of State, authorizing the formation of a settlement, and the sale of land at Port Curtis, and stating that with the advice of the Council his Excellency requests me to submit a tracing showing the boundaries which Mr. Rolleston proposes for the Darling Downs district, and which appear to differ but slightly from those marked orange in my tracing.

I have the honour, accordingly, to submit a copy of the tracing which accompanied the letter of the 22nd August, showing the boundaries proposed by Mr. Rolleston, by a line of yellow dots, and which, as supposed, differs but little from the orange line on the tracing.

The second paragraph of your letter requests me to show on the tracing, and explain in an accompanying Report, any modification of the boundaries proposed by Mr. Rolleston, which I may see reason to recommend.

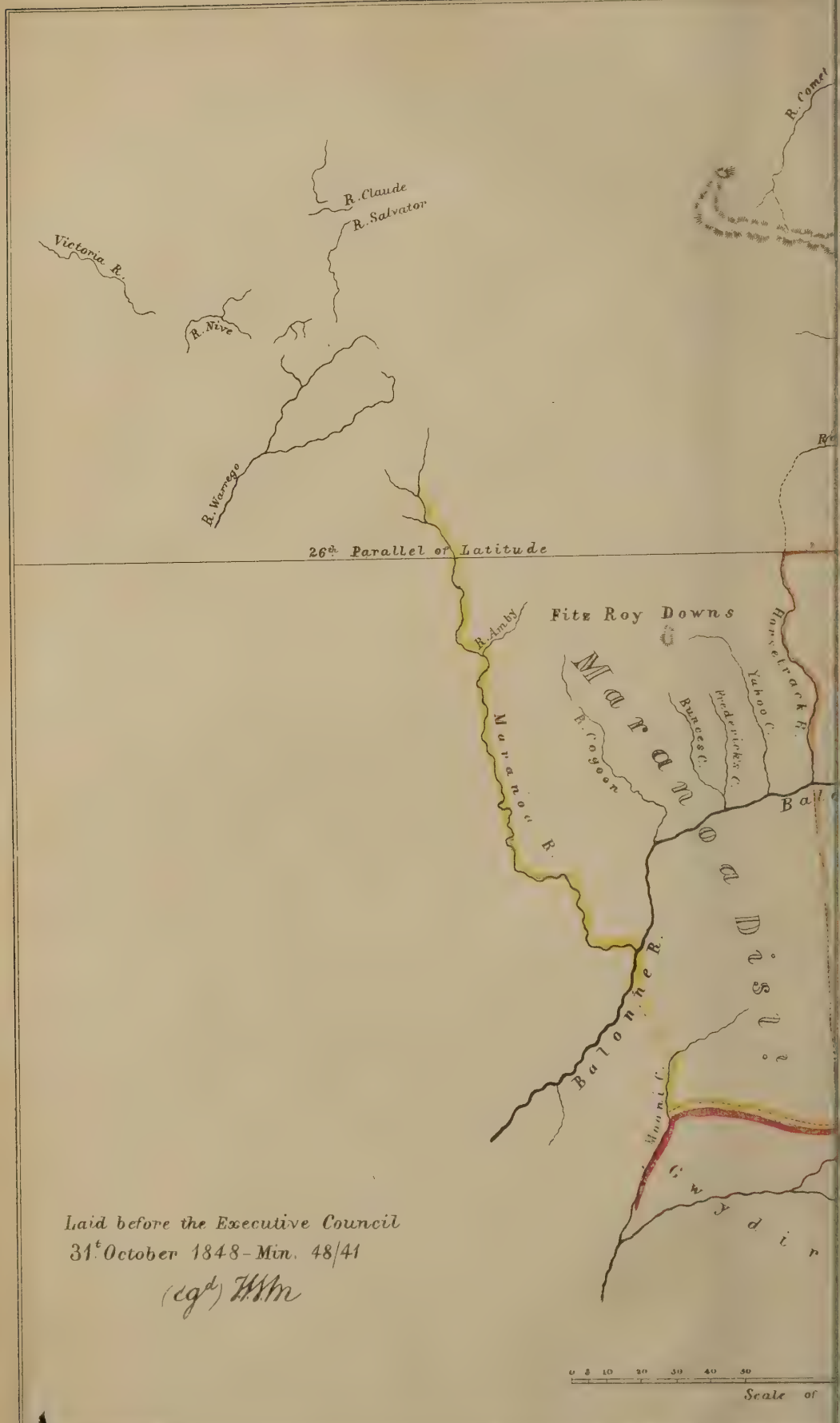
I have accordingly to state that I see no objection to the boundaries proposed by Mr. Rolleston. The 26° parallel of latitude had been suggested, but now that the colony is not limited to the 26°, I consider the dividing range as proposed by Mr. Rolleston a far better boundary.

In the third paragraph you request me to show on the same tracing, the boundaries which I would propose for three new districts, two of them shown by Mr. Rolleston as the Wide Bay and Burnett River Districts, and a third comprising the country west of the Darling Downs, and extending to the Maranoa on the west, and embracing FitzRoy Downs on the north, so that the Council may permanently fix the boundaries of the Darling Downs district, with reference to the establishment of adjoining districts which the Government may soon be called upon to declare.

I have the honour to state, that I have accordingly added to the sketch the boundaries on the north suggested by Mr. Rolleston, which being the main ranges, forming the basins of waters, are well calculated for district boundaries. Certainly the Wide Bay district may be considered somewhat small, and the Burnett too large, but that arrangement is unavoidable; the Burnett district can be divided when required. For the boundaries of a district to the west I should propose the River Maranoa and Mooni Creek, the boundary on the north being left for the present undetermined, like those of the Burnett River district on the northern side.

By the fourth paragraph of your letter you request me to submit, as early as practicable, descriptions of the boundaries of a series of counties along the north-east coast, extending from Stanley to Port Curtis.

In reference to this request, I beg to state, that as I have not been favoured with a copy of the Secretary of State's Despatch, or been made acquainted with the views of the Government on this subject, it is not very possible for me to understand what is required; if the intention be that I should avail myself of whatever little may be known of these regions, and make out some descriptions for proclamation, to meet some particular object, such as the determining of



Laid before the Executive Council
31st October 1848 - Min. 48/41
(cgd) Wm

Esperibon C.
Zamia C.
R. Burnett
Hervey's Bay
Great Sandy Is.
R. Mary
Wide Bay
Wide Bay District
R. Dawson
Burnett Dist.
Boonarbah C.
Dawood C.
Dogwood C.
Cowley C.
Brush C.
Myall C.
Oaky C.
Drayton
Downs District
Kings C.
Dalrymple C.
Gap C.
Warwick
Swan C.
Macintyre Brook
R. Severn
Macintyre R.
New England District
Cooyar C.
R. Brisbane
Glasshouses
Moreton
County of Stanley
Moreton Bay
Moreton I.
Stradbroke Id.
Moreton Dist.
Clarence
District
J. Arrowsmith, Lithe

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such counties before the end of the year, to meet the Orders in Council, I shall, of course, do what may be possible immediately, according to the views of the Council; but if it be intended that the country between Moreton Bay and Port Curtis shall undergo such an examination as shall enable me to throw it into counties with provisional or determinate boundaries, then it will be necessary to employ one or more strong surveying parties which might be dispatched by sea to Moreton Bay or Port Curtis, for although there may be some squatters spread over the country in question, still they would be too few to be looked on as protection for surveying parties against the natives. A surveying party is constantly exposed, by change of position, to be attacked. But the most essential part of such a survey would be the line of coast, which can only be properly surveyed for territorial purposes by proceeding along the land with the chain; I therefore await his Excellency's further instructions on this and the fourth and last paragraph of your communication.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) T. L. MITCHELL,
&c. &c. Surveyor-General.

No. 11.

(No. 37.)

No. 11.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, February 26, 1849.

(Received June 27, 1849.)

(Answered July 6, 1849, No. 109, p. 82.)

MY LORD,

1. I HAVE the honour to forward herewith a copy of the proceedings of the Executive Council relative to the proclamation of 31 new counties, in accordance with the instructions contained in your Lordship's Despatch, No. 83, of 24th May, 1848.*

September 19, 21, October 24 / November 21, December 19, 27.

2. The names and descriptions of these new counties are contained in the proclamation published in the "Government Gazette" of 30th December, 1848, a copy of which is appended to the proceedings of the Council.

I have, &c.,

The Right Hon. Earl Grey, (Signed) C. A. FITZROY.
&c. &c.

Enclosure 1 in No. 11.

Encl. 1 in No. 11.

PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Proclamation of New Counties, as authorized by Earl Grey's Despatch of 24th May, 1848, No. 83.

Extract from Minute 48/33, *September* 19, 1848.

Members Present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Colonial Treasurer.

Referring to the proceedings of the Council in the months of August, September, October, and November, 1847, respecting the measures to be taken for giving effect to Her Majesty's Order in Council of the 9th March, 1847, and especially to those of the 28th October and 29th November, relative to the preparation of descriptions of certain proposed counties, so as to admit of the lands comprised in them being brought within the intermediate class, should their proclamation be ordered by the Secretary of State, his Excellency the Governor lays before the Council a Despatch* from the Secretary of State, communicating his Lordship's approval of the arrangements advised by the Council, and authorizing the proclamation of the proposed new counties, as shown on the maps transmitted to him, and of any other counties which the Governor might deem it expedient to form, and which might be sufficiently surveyed for the purpose before the 31st of December next.

* May 24, 1848, No. 83.

The Council recommend, in reference to this Despatch, that the Surveyor-General should be requested to attend at their next meeting, for the purpose of affording information respecting any additional counties which the progress made in the survey of the unsettled and intermediate districts may enable him to propose for proclamation before the end of the present year, in addition to those expressly sanctioned by the Secretary of State.

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* Page 132 of Parliamentary Paper, "Occupation of Crown Land in New South Wales," presented to both Houses of Parliament by Command, August, 1848.

Extract from Minute 48/34, *September* 21, 1848.

Members Present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

With reference to the proceedings on the 19th September instant, his Excellency the Governor informs the Council that the Surveyor-General is in attendance for the purpose of affording such information as they may desire to obtain respecting the number of new counties which the progress made in the surveys would enable him to describe for proclamation before the end of the year 1848, in addition to those specifically sanctioned by Earl Grey's Despatch of the 24th May last.

His Excellency at the same time states to the Council, that he has forwarded a copy of the Despatch to the Superintendent of Port Phillip, with a request that his Honour will report as to the expediency of proclaiming any new counties in that district, in addition to those sanctioned by Earl Grey.

The Surveyor-General is called in and states, that he could be prepared to include in the counties a very extensive tract of country to the westward, comprising large portions of the Murrumbidgee, Lachlan, Wellington, Bligh, Liverpool Plains, and Darling Downs districts, and the whole of the New England district should the Governor and Council deem it expedient so far to extend the class of intermediate lands.

The Council are of opinion, that no practical benefit would be derived from so vast an extension of the intermediate districts as that mentioned by the Surveyor-General; but they recommend that undermentioned counties in the middle district should be proclaimed, in addition to those sanctioned by Earl Grey's Despatch, if their boundaries can be defined and described before the end of the year, and that the Surveyor-General should be instructed accordingly:—

The counties of Pottinger, Inglis, Sandon, Gresham, Buller, and Canning, as shown in the map submitted to the Council in 1847, and any portions of the counties of Cavendish and Churchill, as shown in the same map, which are not within the boundaries of the reputed county of Stanley.

2. A county to the west of the coast county of Richmond, filling up the interval between the above-named counties of Buller and Gresham.

3. Two or more counties extending from the above-named counties of Canning and Cavendish, to the 26th parallel of latitude, so as to complete the double line of counties along the coast to that parallel, which was the boundary of the colony of New South Wales when the Order in Council was issued.

Extract from Minute, 48/40, *October* 20, 1848.

Members Present:—

Same as 48/34, above.

With reference to the proceedings on the 21st September last, his Excellency the Governor lays before the Council the Surveyor-General's letters of the 12th and 18th October instant, respecting the proclamation of counties in the Sydney district, with a view to their being brought into the class of intermediate lands under the Order in Council; and Mr. La Trobe's letters of the 9th and 12th October instant, respecting the proclamation of counties for the same object, in the Port Phillip district. Appendix A. 1 & 2. Appendix A. 3 & 4.

In answer to questions raised by him in the letters before them, the Council advise that the Surveyor-General should receive the following instructions:—

1. To submit the descriptions of all the proposed new counties not later than the 15th December next, which will allow a fornight for the preparation of the proclamation, and for any adjustment of the boundaries which may be deemed necessary.

2. To prepare the descriptions of the proposed counties of Canning and Churchill, so that the boundaries ultimately intended for them may appear in the proclamation, as suggested in the Surveyor-General's letter of the 18th instant; but with an explanatory note, excluding from them for the present such portions as be within the reputed county of Stanley, and are consequently placed by the terms of the Order in Council in the class of settled lands.

3. To reject the 26th parallel of latitude as a boundary of the proposed counties to the north of Canning and Cavendish, in favour of natural features, on the understanding that no portion of the boundary line adopted shall lie to the south of the 26th parallel, which was the northern limit of the colony of New South Wales when the Orders in Council was issued, and up to which, therefore, the provisions of that order must necessarily have full force and effect.

As Mr. La Trobe does not recommend the addition of any counties to those approved of by the Secretary of State, and as he reports that, although he anticipates being able to furnish more accurate descriptions of certain of the new county boundaries before the end of the year, yet that those which he possesses already are sufficient for the purpose of their proclamation: nothing further appears to be requisite in respect to the Port Phillip counties, than to inform Mr. La Trobe that the descriptions for the proclamation must be sent in so as to reach Sydney by the 16th December next.

NEW SOUTH WALES.

Extract from Minute 48/44, *November* 21, 1848.

Members Present:—

Same as 48/34 above.

With reference to the proceedings on the 24th October last, his Excellency the Governor lays before the Council a letter from the Surveyor-General, reporting that, he is prepared to supply for provisional proclamation descriptions of two counties to the westward of the Murrumbidgee district, the addition of which to the intermediate district is recommended by Mr. Surveyor Townshend. Appendix B.

The Council, after mature deliberation, express their opinion, that it will not be expedient at this late date to make any further addition to the number of counties, of which the proclamation has been already advised, with a view to the lands therein comprised being brought within the intermediate class.

Having reason to believe that many pecuniary transactions have been based upon the supposition that the intermediate districts would not extend beyond the counties recommended for the approval of the Secretary of State, the Council are now disposed to advise the exclusion from the contemplated proclamation of all counties not so recommended, with the exception of those on the coast to the north of Moreton Bay (which it is highly desirable to form in order to continue the chain to the 26th parallel of south latitude), where the greater portion of the country has not been placed under licensed occupation, and where leases cannot consequently be claimed under chap. 2, sec. 11, of the Order in Council.

To this matter, however, the Council would desire to have an opportunity of directing their further consideration when the draft of the proclamation is prepared.

Extract from Minute 48/49, *December* 19, 1848.

Members present:—

Same as 48/34 above.

With reference to the proceedings on the 24th October and the 21st November last, his Excellency the Governor lays before the Council two letters from the Surveyor-General submitting the descriptions of the proposed new counties which he had been instructed to furnish for the purpose of their proclamation before the end of the present year, so as to bring them within the class of intermediate lands under Her Majesty's Order in Council of the 9th March, 1847. Appendix C. 1 & 2.

Having considered these descriptions, and the map by which they are accompanied, the Council advise, that the chain of coast counties should be continued to the 26th parallel of south latitude by the proclamation of those distinguished in the map by the names of Canning and March. Subject to this exception, the Council are of opinion that it would not be advisable to establish any other new counties than those which were submitted to, and have been specially approved by, the Secretary of State; and they accordingly advise that the descriptions of other counties which have been prepared by the Surveyor-General should not be inserted in the proclamation.

Respecting portions of the boundaries of Ward, Parry, and Vernon, and respecting also the adaptation of the boundaries of Canning and Ward to those of the adjoining reputed county of Stanley, the Council desire to consult the Surveyor-General, and they accordingly defer the consideration of the intended proclamation until the next meeting when the Surveyor-General will attend.

Extract from Minute 48/50, *December* 27, 1848.

Members present:—

Same as 48/34 above.

The Surveyor-General being in attendance is called in for the purpose of affording the information which at their last meeting, on the 19th instant, the Council desired to obtain, respecting the boundaries which he proposed to assign to certain of the intended counties.

The Council having pointed out the irregular and unsightly appearance of the acute angle in which the county of Ward seems, from the map before them, to terminate to the westward, and of the narrow tongue of land intervening between Parry and Vernon, the Surveyor-General states that those apparent deformities do not in reality exist, and that the boundaries in question, which are clear and well defined, present a very different appearance on his large maps. Upon this explanation the Council recommend that these boundaries should be approved.

The 27th and 28th parallels of south latitude being respectively the northern and southern boundaries of the present reputed county of Stanley, which by the Order in Council is declared to be a settled district, the Council, after consultation with the Surveyor-General on the subject, decide that, bearing in view the object of the contemplated proclamation, it will be expedient to adopt the former of those parallels as the southern boundary of the adjoining county of Canning, and of the latter as the northern boundary of the adjoining county of Ward, instead of the natural boundaries proposed by the Surveyor-General, which encroach upon the said reputed county of Stanley, and may therefore, occasion misapprehension and confusion; and the Council, with the assistance of the Surveyor-General, amend the descriptions accordingly. The Council, however, see no reason why the boundaries proposed by the Surveyor-

General for the counties of Canning and Ward should not be fully adopted, whenever it may become desirable to assign to the county of Stanley natural instead of artificial boundaries.

The Council then advise the issue of the following proclamation.*

Enclosure 2 in No. 11. Encl. 2 in No. 11.

No. 48/438. APPENDIX A 1.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY.

SIR, Surveyor General's Office, Sydney, October 12, 1848.

IN reference to your letter, No. 48/411 of 18th September, in which, by direction of his Excellency the Governor, you forwarded to me for my information and guidance, a copy of a Despatch from the Secretary of State, and requested my attention to the necessity of furnishing at as early a period as the state of the survey will admit, the descriptions of the several counties which it is intended to proclaim beyond the settled districts, in conformity with Earl Grey's instructions and authority. The Despatch states that the 28 new counties as proposed may be proclaimed, as well as any others that may he sufficiently surveyed.

2. I have the honour to state, for the information of his Excellency the Governor, that, besides the 28 counties to which the Secretary of State alludes, others as undermentioned, and within the middle district, were deecribed and mapped in 1845; viz.:—

Pottinger,	Buller,
Inglis,	Churchill,
Sandon,	Cavendish,
Gresham,	Canning;

and I have given instructions for the completion of these counties, as well as those of the 28, which are within the middle district; and I have, therefore, to state that, availing myself of the recent surveys and other information, I have made arrangements for an extension of counties westerly throughout the whole of the middle district, and have issued instructions to each of the nine surveyors to do what they can towards completing the boundaries of these counties either for final or provisional proclamation. I have now to request the favour of information, as to the latest day on which it may be convenient for the Government to receive these descriptions for proclamation; and also whether it is necessary to make any distinction between such counties as may be thoroughly surveyed and those which can be only provisionally proclaimed, from wanting some actually surveyed line or lines, and also whether in the event of any particular county or counties not being quite ready for proclamation, from want of such descriptions, any inconvenience is likely to result; for although the Deputy Surveyor-General is leaving Sydney, in order to take measures for an immediate application of the services of the nine surveyors, to the completion of this duty, still it is possible that all arrangements may not combine so effectually, when surveyors are far from post-offices, or other causes, as may not disappoint expectations, notwithsanding the facilities afforded by the adoption of temporary descriptions. Some uniformity has been attempted in arranging counties according to an average distance from the sea coast, but still governed by the quality of soil, water, &c.; and it is desirable that there should not be any one or more of them omitted, lest the system might seem unequally applied.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) T. S. MITCHELL,
Surveyor-General.

Enclosure 3 in No. 11. Encl. 3 in No. 11.

No. 48/446. APPENDIX A 2.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY.

SIR, Surveyor-General's Office, Sydney, October 18, 1848.

I HAVE the honour to acknowledge the receipt of your letter No. 48/469, of the 13th October, informing me, by the direction of his Excellency the Governor, with reference to the Despatch on the subject of the proclamation of counties before the end of the year, that the Council recommended the proclamation of—

Pottinger,	Gresham,
Inglis,	Buller,
Sandon,	Canning,

and so much of Cavendish and of Churchill as are not within the reputed county of Stanley; also the county between Buller and Gresham; also two or more counties extending from Canning and Cavendish to the 26th degree parallel of latitude; and further, in reference to my verbal communication with the Council on the subject of an extension of counties westerly;

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* This Proclamation will be found printed at page 51.

NEW SOUTH WALES.

and their proclamation before the end of the year, that the Council were of opinion that no benefit would result from such a vast extension of the intermediate lands.

2. In reference to these directions I have the honour to state, for the information of his Excellency the Governor, that when I was before the Executive Council, I understood it to be the wish of the Governor that as many descriptions as possible of counties for provisional proclamation should be prepared before the end of the year; and, as will be gathered from my letter No. 438, of the 12th of October (despatched only a short time before the receipt of this), that I hastened to sketch out boundaries for such counties; that I applied to each of the surveyors in the squatting districts, for aid and information, and that I instructed the Deputy-Surveyor-general to proceed to the north in order to hasten the completion of those arrangements.

3. I shall now, however, inform Capt. Perry that he may confine his attention for the present to the counties mentioned in your last communication. In respect, however, to Cavendish and Churchill, I apprehend the course will be to proclaim those counties, excluding, by an explanatory note, such parts of them as have been brought by the Order in Council within the settled districts, for the reputed county of Stanley embraces also portions of Ward and Canning; and with respect to the counties to the north of Canning and Cavendish, I have to inquire whether it is imperative that the 26th degree is to be taken for boundaries, or whether such natural features as may present themselves may be taken in that vicinity.

I need not, I believe, observe that purely astronomical lines are considered to be objectionable as boundaries.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) T. L. Mitchell,
Surveyor-General.

Encl. 4 in No. 11.

Enclosure 4 in No. 11.

No. 48/921. Appendix A 3.

The Superintendent of Port Phillip to the Colonial Secretary.

Sir, Superintendent's Office, Melbourne, October 9, 1848.

I have the honour to acknowledge the receipt of your letter dated 21st September, No. 48/542, transmitting copy of a Despatch from the Right Honourable the Secretary of State for the Colonies sanctioning the erection of certain new counties beyond the settled districts of the colony as at present defined, and referring to my letter of the 17th May last, requesting that I will furnish as early as possible the description of the proposed county of Talbot, and also any further information or particulars with respect to the new counties intended to be proclaimed in the Port Phillip district, which I may now be in a position to afford.

After reference to the surveyor in charge, I am enabled to state, that the survey of the proposed north-west boundary of the county of Talbot be forthwith determined by actual survey. The boundaries completed, viz., north and north-east, accord with the descriptions forwarded to you in my letter of the 17th May, 1848, and the plans will be transmitted to the Surveyor-General by the first opportunity. The whole of the boundaries will be surveyed before the close of the year, but the boundaries, as actually defined, would be sufficient for its proclamation should that be deemed necessary.

With reference to the boundaries of the other counties proposed to be comprised within the intermediate district, the surveyor in charge states no additional information beyond that already furnished, can be now transmitted, or is really requisite.

With regard to the further request, that I would report whether there are any other counties which it would be expedient to proclaim, and of which the surveys are sufficiently advanced to admit of their speedy proclamation, I beg to state that I do not consider that it is necessary or desirable to include in the intermediate district any other portions of land than those already proposed for proclamation.

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) C. J. La Trobe.

Memorandum referred to.

The description of the county of Talbot can be proclaimed with the other counties. The survey of the north-west portion will be immediately commenced; the boundaries lately completed, viz., the north and north-east, accords with the description forwarded to your Honour, and the plans will be transmitted to the Surveyor-General by the next opportunity. I expect to have the whole of this county completed by the end of this year.

I do not see the expediency of proclaiming more counties than your Honour has already proposed.

(Signed) Robert Hoddle,
Survey Office, Melbourne, October 5, 1848. Surveyor.

Enclosure 5 in No. 11.

NEW SOUTH WALES.

Encl. 5 in No. 11.

No. 48/923. APPENDIX A 4.

The SUPERINTENDENT of PORT PHILLIP to the COLONIAL SECRETARY.

SIR, Superintendent's Office, Melbourne, October 12, 1848.

WITH reference to my letter to you, No. 48/921, by last overland mail, I beg now to enclose copy of a report which I have since received from the surveyor in charge, describing the portions of the boundaries of the proposed new counties at present unsurveyed, which Mr. Hoddle expects to have completed before the 31st of December next. October 8, 1848. No. 48/210.

2. His Excellency the Governor will however understand, that the actual survey contemplated by the surveyor in charge is not necessary to enable His Excellency to issue the Proclamation of the counties' which must take place before the close of the year.

I have, &c.,

The Hon. the Colonial Secretary, Sydney. (Signed) C. J. LA TROBE.

No. 48/210. ENCLOSURE referred to.

SIR, Survey Office, Melbourne, October 8, 1848.

IN accordance with your Honour's request, I beg to annex, for your information, a statement of the various boundaries of the new counties at present unsurveyed, which I expect to have completed before the 31st of December next, viz :—

FOLLETT.—a small portion of the north-east boundary, from the head of the Mosquito Creek across a low range to Powers Creek, following this creek to its confluence with the Glenelg River.

DUNDAS.—The Glenelg, from the confluence of the Pigeon Ponds to its source near Mount William, the Grampians to the rocky extremity near Mount Abrupt, and thence by features to the Grange Burn.

VILLIERS.—A line easterly from the rocky extremity of the Grampians near Mount Abrupt to the head of the creek, which joins the Hopkins River near Wiselaskies.

RIPON.—A line from the Hopkins River running east to Lake Boloke, also from Prakmujerin Creek to a point in Emu Creek, about one mile below the confluence of the Broken Creek, Burrampeet Creek (from where Mr. Smyth left off) to its source in the Dividing Range, and by the Dividing Range to Mount Cole.

HAMPDEN.—A line south from Emu Creek to the head of the Gnarkeel Ponds; a line west from Lake Koranqumite to the north end of Lake Pormbeet, and thence to the nearest part of the Emu Creek, Heytesbury and Polworth ; to survey the Gellibrand River to its source, part of the Dividing Range; the Piron Yorlock Creek from its source to Lake Koranqumite and the south-west shores of this lake.

TALBOT.—A creek rising near Mount Cole, and running into the Loddon River.

GRENVILLE.—If the eastern boundary mentioned in my proposed description is taken, viz., the Yarrowie to its source in the Dividing Range (which has been surveyed by Mr. Urquhart), this county will be complete.

DALHOUSIE.—Complete, with the exception of a small portion of the Dabamingai Creek.

GRANT.—North-west boundary, being part of the Dividing Range.

ANGLESEY.—The range dividing Septimus Creek from the west branch of the Devil's River to the head of Hughes Creek, part of the Goulburn River from its junction with the Kaigai Creek upwards to Dr. Dixon's cattle station.

With regard to the survey of Gipps' Land, I am sorry to say that it proceeds very slow and unsatisfactory.

I have, &c.,

(Signed) ROBERT HODDLE, Surveyor.

His Honour the Superintendent of Port Phillip.

Enclosure 6 in No. 11.

Encl. 6 in No. 11.

No. 48/484. APPENDIX B.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY.

SIR, Surveyor-General's Office, Sydney, November 4th, 1848.

I HAVE the honour to refer to my letter No. 48/438, in which I alluded to the circumstance of my having made arrangements for the extension of counties westerly, and that I had issued instructions to the surveyors accordingly. Subsequently by your letter, No. 48/469, of the 13th October, it was intimated to me what counties were to to be proclaimed before the end of the year; and that the Council were of opinion that no benefit would result from such a vast extension of the intermediate lands as had been contemplated. October 12, 1848.

2. I have now the houour to state, for the consideration of His Excellency the Governor, that Mr. Surveyor Townsend, acting upon the instructions so issued to him, as mentioned to you in my letter, No. 48/438, has forwarded to me descriptions for provisional proclamation of two counties in that part of the Morumbidgee district, bordering upon the 19 counties, and embracing the towns on the road to Port Phillip.

NEW SOUTH WALES.

3. I should not, after the receipt of your letter, No. 48/469, have brought this matter under His Excellency's notice, but Mr. Townsend reports that he thinks it highly desirable that these counties should be proclaimed as intermediate, as there can be little doubt that they will embrace the country from which the vast extent of territory occupied by squatters in the country to the westward will be supplied with grain.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) T. L. Mitchell.

Encl. 7 in No. 11.

Enclosure 7 in No. 11.

No. 48/532. Appendix C 1.

The Surveyor-General to the Colonial Secretary.

Sir, Surveyor-General's Office, Sydney, November 30, 1848.

In reference to the Deputy Surveyor-General's letter to you of the 25th March last, No. 48/164, whereby, in reference to the descriptions of the 13 new counties in the Port Phillip district, sent for revisal, it is stated that they are sufficient for final proclamation, with the exception of Talbot, respecting which a satisfactory communication was subsequently forwarded in your letter, No. 48/267, of the 8th June, 1848.

2. I have now the honour to state, for the information of his Excellency the Governor, that I have just received from the surveyor in charge at Port Phillip, descriptions of the whole number of southern counties, comprising 13 new and 3 old counties, and concluding that all that is required to be done, or that can be done, is to forward them to you for proclamation. I hereby enclose copies accordingly.

Descriptions enclosed.

3. I have, however, to remark that the areas of two of these counties, viz., Follet and Evelyn, are somewhat less than the minimum required according to the Royal Instructions for the division of the territory, but I do not perceive that this circumstances can now be rectified.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) T. L. Mitchell,
Surveyor-General.

Encl. 8 in No. 11.

Enclosure 8 in No. 11.

No. 48/565. Appendix C 2.

The Surveyor-General to the Colonial Secretary.

Sir, Surveyor-General's Office, Sydney, December 15, 1848.

In reference to your letter of 18th September, 1848, No. 48/411, and subsequen letters of 13th October, 1848, No. 469, and 16th November, 1848, No. 540, relative to the counties which are to be proclaimed either provisionally or determinately before the end of this year, your letter, No. 540, stating that you wish to have the descriptions of these counties forwarded to you before the 15th of this month. I have now the honour to state, for the information of his Excellency the Governor, that I have prepared all the descriptions called for by your letter, No. 469, but that, although I have addressed urgent letters to the surveyors in the northern part of the colony, I have not, with the exception of Mr. Darke, who has furnished material for eight descriptions, received any assistance from the other parties, owing, I suppose, to the miscarriage of my letters, and I can only, therefore, give such descriptions of some of the counties as will serve for provisional proclamation, and those of March, Lennox, and Fitz-Roy are founded upon very slight data. By your letter, No. 540, I am directed to exclude by a note such portion of the county of Canning, or other counties as may come within the reputed, or otherwise the electoral county of Stanley, finding that portions of no less than four counties, namely, Canning, Cavendish, Churchill, and Ward are embraced by this electoral arrangement, I beg to submit that a general note having reference to the four will do as well as if a special note were attached to each. Hereunder is a schedule of the descriptions now forwarded.

Schedule of Counties to the North of the Nineteen Counties.

Name of County.	How to be Proclaimed.	
	Determinately.	Provisionally.
Stanley	Determinately.	
Canning	This is part of the settled district of Stanley.	Provisionally.
March	Ditto.	Ditto.
Lennox	Ditto.	
FitzRoy.		
Cavendish	Determinately.	
Churchill	Ditto.	
Ward	Ditto.	
Rous	Ditto.	
Buller.	Ditto.	
Richmond	Ditto.	
Drake	Ditto.	
Clarence	Ditto.	
Raleigh	Ditto.	
Gresham	Ditto.	
Dudley	Ditto.	
Sandon	Ditto.	Provisionally.
Vernon	Ditto.	Ditto.
Hawes	Ditto.	
Parry	Determinately.	
Inglis	Ditto.	
Buckland	Ditto.	
Pottinger	Ditto.	

Counties to the South of the Nineteen Counties.

Auckland	Determinately. This almost intermediate, according to the orders in Council.	
Dampier	Determinately.	
Wellesley	Ditto.	
Wallace	Ditto.	
Beresford	Ditto.	
Cowley	Ditto.	
Buccleuch	Ditto.	

I have, &c.,

The Hon. the Colonial Secretary, &c. &c.

(Signed) T. S. Mitchell, Surveyor-General.

P.S.—I enclose a copy of the lithograph of the squatting districts showing the relative position of these counties.

Enclosure 9 in No. 11.

No. 148. Appendix D.

[Extracted from the New South Wales Government Gazette, dated December 30, 1848.]

Proclamation.—By his Excellency Sir Charles Augustus FitzRoy, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c., &c.

Whereas Her Majesty was graciously pleased by Letters Patent, under the great seal of the United Kingdom of Great Britain and Ireland, bearing date at Westminster, the 20th day of February, 1846, to give and grant to me full power and authority with the advice and consent of the Executive Council, to issue a Proclamation or Proclamations, dividing the territory of New South Wales into districts, counties, hundreds, and parishes, and to appoint the limits thereof respectively; and whereas by a certain Order of Her Majesty in Council, dated the 9th day of March 1847, it was amongst other things directed, that the intermediate districts, by the said Order appointed to be established, should comprehend, in addition to certain lands therein specified, any county or counties of which the boundaries might be fixed and proclaimed on or before the 31st December, 1848. Now, therefore, I, the said Sir Charles Augustus FitzRoy, as such Governor aforesaid, in pursuance of the power and authority so vested in me, do hereby, with the advice and consent of the Executive Council, proclaim, that certain parts or portions of land in the said territory of New South Wales as hereinafter described, have been admeasured and laid out as separate and distinct counties within the said colony, and that the same shall be known and called by the respective names following, that is to say:—March, Canning, Ward, Rous, Richmond, Clarence, Raleigh, Dudley, Vernon,

NEW SOUTH WALES.

Hawes, Parry, Buckland, Dampier, Beresford, Cowley, Buccleuch, Wallace, Wellesley, Follet, Dundas, Villiers, Ripon, Hampden, Heytesbury, Polworth, Grenville, Talbot, Dalhousie, Anglesey, Evelyn, and Mornington; and I do hereby further notify and proclaim that the boundaries and limits of the said several and respective counties are and shall be as follows, subject nevertheless to such more exact determination thereof, with reference to the natural features of the country, as may hereafter be deemed expedient, that is to say:—

SYDNEY OR MIDDLE DISTRICT,

County of March containing about 1,925 *square miles.*

Bounded on the south by Moroochydore River to its source, thence by the range dividing the system of the River Mary from that of the Brisbane, to the main source of the Mary; on the west by the Mary; on the north-east by the coast of Wide Bay; and on the east by the sea coast to the mouth of the Moroochydore.

County of Canning, containing about 1,330 *square miles.*

Bounded on the east by the sea coast from the 27th parallel of south latitude to the River Moroochydore, including part of Bribie's Island and other islands within these limits; on the north of the Moroochydore river to its source, thence by the range dividing the waters of the River Mary from those of the Brisbane to Jemma, at the source of the Brisbane; on the south-west by the River Brisbane until it reaches the 27th parallel of south latitude; and on the south by the 27th parallel of south latitude, which is the northern boundary of the present reputed county of Stanley.

County of Ward, containing about 1,105 *square miles.*

Bounded on the south by the range which runs from Point Danger to Mount Lindesay, and thence to Wilson's Peak, on the great dividing range; on the north-west by the range which divides the waters of the Teviot from those of the Bremer, until it meets the 28th parallel of the south latitude; on the north by that parallel; and on the east by the sea-coast to Point Danger.

County of Rous, containing about 1,772 *square miles.*

Bounded on the south and west by the River Richmond to the spot where its course changes from east to south; thence by a line due north to the range which forms the southern boundary of the county of Ward; on the north by that range to Point Danger; and on the east by the sea-coast to the mouth of the River Richmond.

County of Richmond, containing about 1,435 *square miles.*

Bounded on the north by the River Richmond from the sea coast to the junction of Eden Creek, and by Eden Creek to its junction with Dyrabba Creek, and from thence by a line bearing south-west to Shannon Brook; and by Shannon Brook to the commencement of Hogarth's Range, and by that range to the dividing range, between the waters of the Richmond and those of the River Clarence; and by the same range to the source of the Tabulam Rivulet, and by that rivulet to the River Clarence; on the west by the River Clarence, downwards to the point of the Coal Ridge at the junction of Nettle Creek; on the south and south-east by the Coal Ridge to the dividing range between the waters of the Richmond and those of the Clarence, and by the same range to a point bearing south-west from Mount Doubleduke, and from thence by a line bearing north-east to the summit of that mountain, and from thence by a line bearing east to the sea-coast, and on the east by the sea-coast.

County of Clarence, containing about 1,215 *square miles.*

Bounded on the south by a line commencing on the sea-coast, and bearing west to the summit of Mount Elanie, and from thence by Elanie Creek to the River Orara, and by that river on the south-west and west to its confluence with the River Clarence, and by the River Clarence to that point of the Coal Ridge, at the junction of Nettle Creek; on the north and north-west by the Coal Ridge to the dividing range, between the waters of the Clarence and those of the Richmond; and by that range to a point bearing south-west from Mount Doubleduke; and from thence by a line bearing north-east to the summit of that mountain; and from thence by a line bearing east to the sea-coast, and on the east by the sea-coast.

County of Raleigh, containing about 1,780 *square miles.*

Bounded on the south and south-west by the Belligen river, from the sea-coast to its source in the dividing range, between the waters of the Bellingen and those of the Rivers Boyd and South Boyd; on the west by the range dividing the waters of the Boyd and South Boyd to their confluence; and from thence by the River Boyd to its confluence with the River Mitchell, and by that river to its confluence with the River Clarence; on the north and north-east by the River Clarence, to the junction of the River Orara; and by that river to the junction of the Elanie Creek; and by that creek to Mount Elanie, and from thence by a line bearing east to the sea-coast; on the east by the sea-coast, including the Solitary Islands.

County of Dudley, containing about 2,075 *square miles.*

Bounded on the south by the River M'Leay, from the sea-coast to the junction of the River Dyke; on the west by the River Dyke, to it source in the range dividing its waters from those of the rivers Bellingen and Boyd, and by that range to the source of the River Bellingen; on the north by the Bellingen, to the sea-coast; and on the east by the sea-coast.

County of Vernon, containing about 1,682 *Square Miles.*

Bounded on the south-east by the county of Macquarie from the River M'Leay to Mount Kippera, thence by the range which divides the waters of the River M'Leay from those of the Rivers Hastings and Manning to its junction with the great dividing range near the head of Cobrabald creek; on the west by the great dividing range as far as the Black Note range, which divides the sources of the River M'Leay from those of the River Apsley; and on the north by the Black Note Range, as far as Mount Black Note at the head of Ohio creek, thence by Ohio creek to the River Apsley, then by the River Apsley to the River M'Leay, and then by the M'Leay.

County of Hawes, containing about 1,450 *Square Miles.*

Bounded on the east by part of the boundary of the county of Macquarie, being a line from the confluence of the Barnard and Manning rivers to Mount Sea View on the River Hastings, thence by a line north to that river, and by that river to Mount Werrekimbee, thence by the Werrekimbee spur to its junction with the range which divides the waters of the River M'Leay from those of the Hastings; on the north by that range to its junction with the great dividing range at the head of Cobrabald creek; on the west by the great dividing range to its junction with the range which separates the waters of the River Barnard from those of the River Hunter; and on the south by that range as far as Mount Woolumbland at the heads of the Hunter river and Oran creek, thence by the range from Woolumbland to Mount Currrakabah at the head of the River Manning, and from thence by the River Manning to its confluence with the River Barnard.

County of Parry, containing about 1,240 *Square Miles.*

Bounded on the south-west by the range which divides the waters of the River Peel from the waters of the River Conadilly; on the north by the Rivers Peel and Cockburn; on the east also by the River Cockburn to its head, and on the south by the great dividing range.

County of Buckland, containing about 1,484 *Square Miles.*

Bounded on the south by the great dividing range which separates it from the counties of Brisbane and Bligh; on the west by the Omaleah and Beraboola creeks, and by the River Conadilly; on the north by the River Nammoi; and on the north-east by the range forming the south-west boundary of the county of Parry.

County of Dampier, containing about 1,700 *Square Miles.*

Bounded on the south by the northern boundary of the county of Auckland, namely, the range which forms the northern boundary of the basin of the Bega and Brogo rivers; on the west by the range which divides the waters falling towards the Murrumbidgee from those descending towards the sea coast on the eastward; on the north by the southern boundaries of the counties of Murray and of St. Vincent; and on the east by the sea coast from the mouth of the Moruya to that of the Bega river, including Montague Island.

County of Beresford, containing about 1,770 *Square Miles.*

Bounded on the south-west by part of the north-east boundary of the county of Wallace, namely, the Murrumbidgee downwards from the Yihac creek to the Wambrook creek, thence by Wambrook creek up to its source in the great dividing range, thence by the great dividing range to the sources of the Rivers Umaralla, Bembooka, and M'Laughlin; on the east by the great dividing range separating the waters of the Murrumbidgee from those falling to the eastern coast; on the north by the boundaries of the county of Murray to the Murrumbidgee, thence by the Murrumbidgee upwards to a point opposite the Gap creek, thence by that creek upwards about one mile and a half, thence by a tributary of that creek continuously to its source at Mount Clear, which stands on the dividing range between the Neece Valley and the Murrumbidgee, then by the dividing range between the Murrumbidgee and Neece Valley until it reaches the range between Yihac creek and the Murrumbidgee, and thence by that range until it reaches the confluence of the Yihac creek with the Murrumbidgee river.

County of Cowley, containing 1,300 *Square Miles, more or less.*

Bounded on the north by the River Murrumbidgee; on the east by the River Murrumbidgee to the Gap creek; on the south by the Gap creek upwards about 1½ mile, thence by a tributary of that creek up to its source in Mount Clear, which stands on the dividing range between Neece Valley and the Murrumbidgee river, thence by the dividing range between Neece Valley and the Murrumbidgee, until it reaches the range which divides the Murrumbidgee from Yihac creek; thence by the dividing range between Yihac creek and the Murrumbidgee to the confluence of those streams; thence by the Murrumbidgee upwards to the mouth of Tanlangar or Gangangar creek; and on the west by the Murrumbidgee upwards to that source, which rises in the dividing range between the latter river and the Coodradigbee, at a point about 1½ mile south-east from the principal source of the Gobaragandra river; thence by a branch of the Coodradigbee river, rising on the opposite side of the range, and running through Coloman Plain to the Coodradigbee river; and thence by that river to its confluence with the Murrumbidgee.

County of Buccleuch, containing about 1,350 *Square Miles.*

Bounded on the north by the Murrumbidgee river from the confluence of the Tumut river upwards to that of the Coodradigbee river; on the east by the Coodradigbee river upwards to

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the confluence of that source which rises in the dividing range between the Coodradigbee river and Murrumbidgee river, about 1½ mile south-east from the principal source of the Gobaragandra river; thence by that source across Coloman Plain to the source of the Murrumbidgee river, which rises about 1½ mile south-east from the principal source of the Gobaragandra river; thence by the Murrumbidgee downwards to the confluence of a tributary which rises in the dividing range between the Murrumbidgee and Tumut rivers, at the point where the road from Tumut to Monaro by Yarrangobilly crosses the range; thence by that tributary upwards to its source in the range, where the Tumut road crosses it; thence by the dividing range between the Tumut and the Murrumbidgee, about 2½ miles to the principal source of the Yarrangobilly river, which is in a high rocky point of the range; on the south by the Yarrangobilly river, from its source to its confluence with the Tumut river; and on the west by the Tumut river downwards to its confluence with the Murrumbidgee.

County of Wallace, containing about 1,970 *Square Miles.*

Bounded on the west by the great dividing range between the waters falling to the Murray, Murrumbidgee, and Tumut rivers to the source of a tributary of the Murrumbidgee which is at the point where the Tumut road crosses the range, and by that tributary to the Murrumbidgee river; on the north-east by the Murrumbidgee river downwards to the confluence of Wambrook Creek, thence by Wambrook Creek upwards to its source in the great dividing range to the source of Bobundra Creek, near the peak, thence on the south-east by Bobundra Creek down to its confluence with the Snowy river, thence by the Snowy river downwards to the boundary line between the Sydney and Port Phillip districts; thence on the south by that boundary line to the great dividing range.

County of Wellesley, containing about 1,700 *Square Miles.*

Bounded on the east by the range which forms the eastern side of the basin of the Snowy river, then on the north by the great dividing range to the source of Bobundara creek, thence by that creek downwards to its confluence with the Snowy river; on the west by the Snowy river downwards to the boundary line between the Port Phillip and Sydney districts; and on the south by that boundary line.

PORT PHILLIP, OR SOUTHERN DISTRICT.

County of Follet, containing about 1,040 *Square Miles.*

Bounded on the west by the (141°) one hundred and forty-first meridian, being the line dividing the colony of New South Wales from South Australia; on the south and east by the Glenelg river upwards to the confluence with Power's creek; and on the north-east and north by Power's creek to its source; thence a line westward to the head of Mosquito creek; and by that creek to the boundary line.

County of Dundas, containing about 2,000 *Square Miles.*

Bounded on the west and north by the Glenelg river upwards, from the confluence of the Wannon, to its source between the Victoria range and the Grampians, near Mount William; on the east by the Grampians to its rocky extremity near Mount Abrupt; thence to Mount Sturgeon, and by a line crossing the Wannon river, to the north-east corner of the county of Normanby, at the Grange Burn; and on the south by the Grange Burn and the Wannon river to its confluence with the Glenelg.

County of Villiers, containing about 1,660 *Square Miles.*

Bounded on the west by a line due south from the Grange Burn to the mouth of the Swamp creek, thence by this creek upwards to its source by a line to the head of the western branch of the River Shaw, thence by the west branch of the River Shaw to the sea; on the south by the sea to the entrance of the River Hopkins; on the east by the said River Hopkins to the confluence of the creek above Wiselaskie's station and by that creek to its source; on the north by a line westward from the source of the last named creek to the rocky extremity of the Grampians near Mount Abrupt, thence by the principal range of the Grampians to Mount Sturgeon, and by a line south-westerly to the north-east corner of the county of Normanby at the Grange Burn, including all the islands at Port Fairy.

County of Ripon, containing about 1,825 *Square Miles.*

Bounded on the west by the Grampian Range (which divides the waters of the Wimmera and Glenelg rivers from those of the River Hopkins) to the rocky extremity near Mount Abrupt; on the south by a line easterly to the source of the first creek which joins the River Hopkins above Wiselaskie's station on the western side, and by that creek to the River Hopkins, thence by a line east to Lake Boloke, thence by the southern shores of Lake Boloke to the mouth of the Prakmingerrin creek, and by that creek upwards to a point where a great bend of the creek turns northward, thence by a line to the point in Emu creek about one mile below and to the west of the confluence of Broken creek; on the south-east and east by Emu creek to the confluence with Baillie's creek, by Baillie's creek to Lake Burrumbeet the southern shores of Lake Burrumbeet and Burrumbeet creek to its source in the great dividing range; and on the north by the great dividing range to the western boundary aforesaid.

County of Hampden containing about 1,420 *Square Miles.*

Bounded on the west by the River Hopkins upwards, from the confluence of the Emu Creek to the point opposite the mouth of the Small Creek above Wiselaskie's station, dividing

it from the county of Villiers; on the north by the southern boundary of the county of Ripon, being a line east from the confluence of the creek near Wiselaskie's station already mentioned to Lake Boloke; then by the southern shore of Lake Boloke to the mouth of the Prakmingerrin creek; then by that creek upwards until it reaches the spot where it forms a great bend to the northward, from that point by a line in a south-easterly direction to Emu creek about one mile below, and westward of the mouth of Broken creek; thence by Emu creek to the point north of the source of Guarkeet ponds; then on the east by the west boundary of the county of Grenville, viz.:—1st. By a line southerly to the source of Guarkeet ponds, then by Guarkeet ponds to Lake Korangamite, and thence by the west shore of Lake Korangamite to a point east of Lake Pormbeet; and on the south by a direct line to the north-end of Lake Pormbreet, and from the north end of Lake Pormbeet to the nearest part of Emu creek, and thence by Emu Creek to its confluence with the river Hopkins.

County of Heytesbury containing about 1,160 *Square Miles.*

Bounded on the north-west and north by part of the eastern boundary of the county of Villiers, and the southern boundary of the county of Hampden, being the Hopkins river from its estuary to the confluence of the Emu creek, the Emu creek, and a line easterly to the north end of Lake Burrambeet, thence by a line east to Lake Korangamite, by the southern shore of that lake to the mouth of the Pirron Yalloak creek; on the east and south-east by the Pirron Yalloak creek to its source, thence by a range to the head of the Gellibrand river, by the Gellibrand river to the sea coast; and on the south-west and west by the sea coast, to the estuary of the Hopkins river.

County Polworth, containing about 1,276 *Square Miles.*

Bounded on the west by the eastern boundary of the county of Heytesbury, namely the Gellibrand river upwards to its source, thence by the range of the head of the Pirron Yalloak creek, by this creek to Lake Korangamite; on the north by the south-eastern shore of Lake Korangamite and an east line from Lake Korangamite to the north end of Lake Colac, thence by the north shore of Lake Colac to the point due west to the from the source of the Birre Gurra creek, from that point by a line east to the source of the Birre Gurra creek; thence by the Birre Gurra creek to its confluence with the River Barwan, thence following the course of the River Barwan to a creek in H. Hopkin's purchased land; on the north-east by this creek upwards and a line across the dividing range to the head of the Salt creek bearing south-east 2 miles 40 chains, thence by the Salt creek to the sea-coast north of Point Road Knight; and on the south-east and south by the sea-coast to the mouth of the Gellibrand river.

County of Grenville, containing about 1,470 *Square Miles.*

Bounded on the west by the eastern boundary of the county of Hampden, namely, a line southerly from Emu creek to Guarkeet ponds; thence by the Guarkeet ponds to Lake Korangamite; thence by the western shore of that lake to a point east of Lake Pombeet; on the south by part of the northern boundary of the county of Heytesbury and the northern boundary of the county of Polworth, namely, the southern shore of Lake Korangamite; thence an east line from Lake Korangamite to the north end of Lake Colac, thence by the north shore of Lake Colac to the point due west from the source of Birrigurra creek, and from that point by a line east to the source of the Birrigurra creek, thence by that creek downwards to its confluence with the Barwan; on the east by the River Barwan to its confluence with the Yarrowa river, thence by the Yarrowa river up to its source in the great dividing range; and on the north by part of the great dividing range to the source of Burrambeet creek, thence by that creek and the southern shores of Lake Burrambeet to the point where Baillies creek leaves the lake, by Baillies creek to its confluence with Emu creek, thence by Emu creek down to the point north of the source of Guarkeet ponds aforesaid.

County of Talbot, containing about 1,194 *Square Miles.*

Bounded on the north-west and north by the south-western branch of the Loddon river from its source near Mount Cole to its confluence with the main stream; thence by the Loddon river upwards to the confluence of Mount Alexander creek, this creek to its source under Mount Alexander; thence by Mount Alexander range to the head of Myrtle creek, and by this creek to its confluence with the Colliban river; on the east by the Colliban river upwards to its source, being part of the western boundary of the county of Dalhousie; and on the south by the great dividing range to the source of the south-western branch of the Loddon river near Mount Cole.

County of Dalhousie, containing about 1,185 *Square Miles.*

Bounded on the west by the River Colliban from its source in the great dividing range to its confluence with the Campaspie river, and by the Campaspie river down to the confluence of Mount Ida creek; on the north by Mount Ida creek to its source near Mount Ida, and by the dividing range to the source of Sandy creek, and by Sandy creek to the Goulburn river; on the east by the Goulburn river upwards until it joins the Dabyminga creek, and by that creek to its source in the dividing range; on the south by the great dividing range.

County of Anglesey, containing about 1,780 *Square Miles.*

Bounded on the west by part of the eastern boundary of the county of Dalhousie, viz.:—from the River Goulburn upwards from the confluence of Hughes's creek to the confluence of Dabyminga creek, thence by Dabyminga creek upwards to its source in the great dividing

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range; on the south by the great dividing range to the main source of the River Goulburn on the east by the range dividing the waters of the main source of the Goulburn and Big river from those of the Rubicon and Snod-pon-dock creek northward to Mount Torbrick, thence by Jerusalem creek to its confluence with the River Goulburn, thence by the River Goulburn downwards to the confluence of the Devil's river, thence by the Devil's river and its north-west arm to the dividing range between the last-named arm, and Septimus creek; and on the north by that range to the source of Hughes's creek, thence by Hughes's creek down to its confluence with the River Goulburn.

County of Evelyn, containing about 1,030 *Square Miles.*

Bounded on the west by part of the eastern boundary of the county of Bourke, namely, first by the River Plenty, from its source to the River Yarra Yarra; thence by the River Yarra Yarra upwards to the confluence of the Deep creek, thence by that creek upwards to the range between the Yarra Yarra and Dandenong creek; on the south-east and north by the range forming the basin of the River Yarra Yarra.

County of Mornington, containing about 1,800 *Square Miles.*

Bounded on the north by part of the southern boundary of the county of Evelyn, being the dividing range from the source of the Buneep Buneep river to the head of the Deep Creek, thence by that creek to the point where the main stream commences to run in a north-west direction; on the west by a line south 2 miles 58 chains from the aforesaid bend to Dandenong creek; thence by that creek downwards to the Carrum swamp, by that swamp and the Mordialloc creek to its embouchure at the long beach below Ben-ben-gin, thence by the shores of Port Phillip Bay to Point Nepeau; on the south-west and south by the sea coast from Point Nepean, to Cape Patterson; and on the east by a line north from Cape Patterson to the Warrangrin range, thence along the said range in a northerly direction to the mouth of the Bunneep Bunneep river, and by that river to its source in the dividing range, including French and Phillip island, and the small islands in Western Port Bay,

Given under my Hand and Seal, at Government House, Parramatta, this twenty-ninth day of December, in the year of Our Lord one thousand eight hundred and forty-eight, and in the twelfth year of Her Majesty's Reign.

(Signed) C. A. FitzRoy.

By his Excellency's command,

E. Deas Thomson.

God save the Queen!

No. 12.

(No. 40.)

No. 12.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, March 1, 1849.

(Received June 27, 1849.

(Answered November 28, 1849, No. 187, page 85.)

My Lord,

1. I am desirous of bringing under your Lordship's notice the expediency of causing a mineralogical and geological survey to be made of this colony, in order to determine the mineral resources which it may possess. The subject has very extensively engaged the public attention for several years past, in consequence of the great success which has attended the opening of some of the copper mines in the neighbouring colony of South Australia.

2. Researches have been made by a great many private individuals, and in various parts of the colony strong indications of the existence of metalliferous ores have been discovered.

3. Copper mines are already in operation in the neighbourhood of Yass, and at Molong, near Wellington Valley. The success which has attended the opening of these mines has only as yet been partial; but the experiment has not yet proceeded far enough to test with any certainty their ultimate productiveness.

4. It is also in contemplation, I understand, to open copper mines in the neighbourhood of Carcoar, in the county of Bathurst, and at Summer Hill in the same county, where strong indications of the existence of lodes of sufficient richness to justify their being worked have for some time been known to exist.

5. A lead mine was opened during the last year in the neighbourhood of Yass, but has been abandoned in consequence of its not having proved sufficiently productive to defray the expenses of working it.

6. An iron mine has also recently been opened in the neighbourhood of Berrima, where an abundant supply of ore is found on the surface, said to yield

from 65 to 70 per cent. of metal of the finest quality. It is also said to possess the peculiar property of running into pure steel when smelted. From specimens which were exhibited to me in a manufactured state, on a recent visit which I made to that part of the country, I can have no hesitation in stating that the steel which this mine produces appears to be of first rate quality. It is capable of taking the most beautiful polish and the highest temper, and is pronounced by competent persons to be therefore adapted for the manufacture of the best descriptions of cutlery, and other articles of hardware usually made from this material requiring these peculiar properties.

7. It may not perhaps be superfluous to add, that all the mines which have been as yet opened are on lands which have been alienated by the Crown without any reservation of the mineral rights.

8. In some parts of the colony I am informed that auriferous ores have been discovered. A specimen, weighing about three ounces and a half, was lately exhibited to me. I have not been able to learn the precise locality where it was found, except that it is on the western side of the great dividing range in Sydney or Middle district.

9. An extensive gold field is also said to have been recently discovered at the Pyrenees, in the Port Phillip district, but I have been unable as yet to obtain any authentic information on the subject. If in the course of the visit I am about to make to that district I should obtain any particulars respecting it worthy of being communicated, it will be my duty again to address your Lordship on the subject.

10. I have thought it necessary to trouble your Lordship with these details, in order to show the probability that if the country were examined by a competent geologist, who would be at liberty to devote his time exclusively to this object, valuable metalliferous ores would be discovered, which could not fail to add greatly to the resources of the colony, extensively to benefit the land fund, and thus to open out a new field for British emigration. I would, therefore, take the liberty of suggesting to your Lordship the expediency of sending out to the colony a well-qualified geologist, whose employment in the public service should probably be limited to such a period only as might be necessary to accomplish the object of his appointment. It would, of course, be his duty to furnish the Government from time to time with reports of his proceedings, and maps showing the geological structure of the country examined. The information thus obtained would, there is little doubt, be found to be highly valuable, both in an economical and scientific point of view. I would further take the liberty of pointing out that, probably by application to the Chairman of the Geological Society, an individual well suited to undertake this duty might be selected.

11. It is not, of course, possible for me to state what should be the amount of remuneration to be paid to the person who may be appointed to perform this service; but, if the proposition be entertained, the expense should, I think, be borne on the Land Fund, as the territorial revenue is likely to be considerably benefitted by the measure.

I have, &c.,

The Right Hon. Earl Grey, (Signed) C. A. FITZROY.

&c. &c. &c.

(No. 113.) No. 13. No. 13.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, June 3, 1849.

(Received October 26, 1849.)

(Answered July 25, 1850, No. 97, page 91.)

My Lord,

With reference to that portion of your Lordship's Despatch of the 14th July, 1848,* in which I am directed to frame rules, with the advice of my Executive Council, under which allowance for improvements effected on Crown lands, may be made to the previous occupants, out of the proceeds of

* Page 133 of "Papers relative to the Occupation of Crown Land, New South Wales," presented to both Houses of Parliament by Command, August 1848.

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January 16, 1849.

May 22, 1849.

May 14, 1849.

the sales, in certain cases not provided for by Her Majesty's Order in Council of the 9th March, 1847, I do myself the honour to enclose a copy of the Minutes of proceedings of the Council on this subject, and of the opinion of Crown law officers of the colony therein referred to.

2. From these documents your Lordship will perceive, that I am considered not to have the power under the existing state of the law, to make a distinction between the value of the improvements and that of the land on which they are made, as is contemplated by your Lordship; and that I must, in every case, appropriate the whole proceeds of the sale in the manner directed by the 18th and 19th clauses of the Land Sales' Act, 5 and 6 Victoria, cap. 36.

3. It will, therefore, be my duty to take no further measures in this matter, until favoured with your Lordship's instructions on the questions now raised.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. 1 in No. 13.

Enclosure 1 in No. 13.

PROCEEDINGS of the EXECUTIVE COUNCIL relative to the measures to be taken for giving effect to the Instructions of the Right Honourable the Secretary of State, relative to an Allowance for Improvements made on Crown Lands in certain cases not provided by the Order in Council of March 9, 1847.

Extract from Minute No. 49/3, *dated January* 16, 1849.

Members present:

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

WITH reference to the proceedings on the 27th August, the 21st October, and the 18th November, 1847, his Excellency the Governor lays before the Council a Despatch from the Secretary of State, intimating his intention to submit to Her Majesty in Council an order for including in the settled districts the lands lying within the distance of ten miles from the towns of Belfast and Warnambool, and signifying his approval of the Council's recommendations that the same allowance for improvements as is granted to certain lessees of runs on the expiration of their leases under second and third conditions of Chapter II., Section 15, of the Order in Council of March 9, 1847, should be conceded also to those occupants whose runs, or portions of runs, have been or may be brought within the class of settled lands, and to those persons also who have held land for other than grazing purposes, and who are not therefore entitled to claim the leases with the attendant advantages conferred on holders of land used for pasturage.

2. His Lordship, however, considers an Order in Council to be unnecessary for effecting these last-mentioned objects, but directs the Governor, with the advice of the Executive Council, to frame rules on the subject, and to announce them by public notice as those which will be observed, subject to confirmation from home, and to any modification which experience or further consideration may suggest.

3. The Council are of opinion that these instructions would be best carried into effect by the issue of a notice, setting forth distinctly the description of cases in which compensation for improvements will be allowed, and declaring the manner of its allowance in the same terms as those employed in the 15th Section of Chapter II. of the Order in Council of March 9, 1847, conditions second and third.

4. As, however, the Council cannot divest themselves of a doubt as to the power of the Governor without the authority of an Act of Parliament or Order in Council to remit or hand over to the person by whom improvements on Crown Lands may have been effected, that portion of the price obtained for those lands, which consists of the estimated value of the improvements, they feel it their duty to recommend that the Despatch should in the first instance be referred to the Crown law officers of this colony, with a request that they will report whether, in their opinion, the price of the improvements can be so distinguished from the price of the land containing them as to admit of its appropriation in any other manner than that directed by the 18th and 19th clauses of the Land Sales Act, 5 and 6th Vict., cap. 36.

Extract from Minute No. 49/21, *dated May* 22, 1849.

Members present:

Same as Minute No. 49/3 above.

Appended.

HIS Excellency the Governor lays before the Council an opinion which, in pursuance of the recommendation made by them on the 16th January last, had been obtained from the Attorney and Solicitor-General, respecting the instruction given to his Excellency by Earl

Grey's Despatch of the 14th January, 1848, to establish a local regulation under which, in certain cases specified, the value of improvements made on Crown Lands should be deducted from the price realized on their sale, and be paid over to the previous occupants.

2. In this opinion the Attorney and Solicitor-General state, that it appears to them that the Governor cannot, without the authority of an Act of Parliament, or, at any rate, an Order of Her Majesty in Council, be warranted in paying over to the previous occupants the estimated value of improvements made on Crown Lands out of the purchase-money of such lands, because, in consideration of law, the improvements are a part of the land, and no portion of the sale of the land can be appropriated by the Governor otherwise than in the manner directed by the 18th and 19th Sections of the 5th and 6th Vict., cap. 36.

3. The Council advise that a copy of this opinion should now be forwarded to the Right Honourable the Secretary of State, in order that His Lordship may obtain either from Her Majesty in Council or from Parliament, as may be deemed most expedient, the power requisite to enable the Governor to carry into effect the principle to which in the Despatch above referred to, his Lordship has accorded his sanction.

FRANCIS L. S. MEREWETHER, Clerk of the Council.

Enclosure 2 in No. 13. Encl. 2 in No. 13.

The Honourable the Attorney-General to the Honourable the Colonial Secretary, respecting modifications of the Order in Council of 9th March, 1847, with respect to the occupation of the Waste Lands in the Australian colonies.

SIR, Attorney-General's Office, May 14, 1849.

I HAVE the honour to acknowledge the receipt of your letter of the 12th February last, No. 49/87, on the subject of certain modifications of the Order in Council dated 9th March, 1847, with respect to the occupation of the waste lands in the Australian colonies, and requesting the opinion of the Solicitor-General and myself on the several points set forth in your communication, having reference to the Despatch from Earl Grey, a copy of which you have enclosed.

2. In reply, I beg to state, that I have consulted with the Solicitor-General in this matter, and it appears to us, that his Excellency the Governor cannot without the authority of an Act of Parliament, or at any rate, an Order of Her Majesty in Council, be warranted in paying over the estimated value of improvements made on Crown lands out of the purchase money of such lands, to the persons specified in your letter.

3. Any buildings erected or improvements (not removable) made on premises by a tenant, become, in consideration of law, a portion of the freehold; or, in other words, a part of the land itself. Consequently, however much such improvements may enhance the value of the property in the eyes of a purchaser, the additional price he may be induced to give for it in consideration of such improvements, must be regarded, in law, as part of the price of the land.

4. Now, by the 18th and 19th sections of the 5 and 6 Vict., c. 36, it is enacted, that after deducting the charges of managing, surveying, and selling the lands in the Australian colonies, the whole of the proceeds of the sales of such lands shall be appropriated and applied to the public service of such colonies respectively. It therefore appears to us, that if the estimated value of the improvements made on the lands mentioned in your letter were to be deducted from the purchase money of such lands, and paid over to the makers of such improvements, it would be a direct infraction of the aforesaid Act, which has expressly directed that the whole of such purchase money shall be appropriated and applied in another manner. No doubt the 9 and 10 Vict., c. 104, has given to Her Majesty a power of making Orders in Council, which would legalize an allowance being made to a tenant for improvements made by him on Crown lands; but such power is only given to the Queen, not to the Governor of any colony; and probably such power could only be exercised by Her Majesty with respect to leases or licences granted after the passing of the last-mentioned Act.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) JOHN H. PLUNKETT, Attorney-General.

(No. 231.) No. 14. No. 14.

EXTRACT of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY, dated Government House, Sydney, November 12, 1849.

(Received May 22, 1850.)

"THE accompanying copy of the proceedings of my Executive Council will, I trust, prove that your Lordship's several Despatches,* which I have had the honour to receive on the subject of the measures to be pursued by this Government for the improvement of the condition of the aboriginal natives of the colony, and for their effective protection, have received the most anxious and attentive consideration; while the difficulties that have always beset the subject, and the almost hopelessness of advising any practical system under which a substantial or durable improvement of the character and habits of these people is likely to be effected, after the almost total failure that has

Minutes of Executive Council.

* Page 76. No. 24, Feb. 11,

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followed all former attempts to attain this most desirable object, will sufficiently account for the long period of time over which our deliberations have been extended, and the delay that has occurred in coming to such definite conclusions as would warrant my submitting them for your Lordship's approval. The proceedings now transmitted enter fully into all the points which have been referred to by your Lordship. * * *

"The question of forming reserves for the use and benefit of the aborigines is also clearly reported, and the recommendations of the Executive Council are such, as I hope, will meet your Lordship's views."

Encl. in No. 14.

Enclosure in No. 14.

EXTRACT from the proceedings of the EXECUTIVE COUNCIL relative to Earl Grey's Despatches of the 11th February, 1848, and to other Papers on the subject of the measures to be adopted for the improvement of the Aborigines.

Extract from Minute No. 48/28, *dated August* 22, 1848.

Members present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

No. 24, Feb. 11, 1848.

"HIS Excellency the Governor lays before the Council a Despatch from Earl Grey respecting the further measures to be taken by the local Government for the improvement of the condition of the aboriginal inhabitants of the colony, and for their effective protection.

"In order that their ultimate decisions may be based on the best practical information within their reach, the Council recommend that reports should be called for on the several topics adverted to in the Despatch, from those officers whose duty it will be to carry out the proposed arrangements for the benefit of the aborigines, and especially from the Superintendent of Port Phillip, to whose district so large a portion of the Despatch exclusively applies.

"The Council accordingly advise, * * * * that an extract from the Despatch, containing so much of it as relates to small reserves for the use or for the benefit of the aborigines be sent to the Surveyor-General, with a request that he will make such comments thereon as may appear to him likely to assist the deliberations of the Council, and that he will submit the measures which he would propose to adopt in his department, for the purpose of giving effect to the instructions of the Secretary of State.

"That the last mentioned extract be also sent to each of the Commissioners of Crown Lands beyond the settled districts, with a request that he will state in what localities it would be desirable to make the reserves proposed by the Secretary of State in his district, and to offer such remarks in respect to them, and to the use to which they should be applied, as his experience of the character and habits of the aborigines within the range of his own duties may suggest.

"That an extract containing so much of the Despatch, as relates to a provision being made to secure to the aborigines the free use of unimproved Crown lands for the purposes of hunting, and in other ways seeking their subsistence as heretofore, notwithstanding the occupancy of those lands under leasehold tenure, be sent to the Crown law officers, with reference to the instruction which was some short time since given to them under the Council's advice to insert in the forms of leases, which they are preparing, a provision securing to the aborigines the right adverted to by Earl Grey."

Extract from Minute No. 49/51 *dated October* 15, 1849.

Members present:—

Same as Minute No. 48/28 above.

"REFERRING to the proceedings on the 16th July last, and at previous meetings relative to the measures to be taken to give effect to the instructions and suggestions contained in Earl Grey's Despatches of the 11th February, 1848, No. 24, and the 27th January, 1849, No. 13, respecting further efforts which it may be practicable to make for the civilization and improvement of the aborigines, the Council beg to submit the recommendations and remarks contained in the following Minute:—

"The full and circumstantial report of his Honour* the Superintendent of Port Phillip, and the opinions expressed in the letters from the several Commissioners of Crown Lands* throughout the colony, will place before the Right Honourable the Secretary of State a body of evidence, the result of local experience, which will show the extreme difficulties which stand in the way of any material amelioration of the character and habits of the aboriginal natives of this colony, and the almost total failure which has attended all the efforts, which have hitherto been made in their behalf.

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* These Papers being exceedingly voluminous, are omitted to be printed.

"The Council, after a most careful consideration of the subject, are unable at present to propose any general plan by which reserves for the aborigines could be made productive of benefit to them, as regards their moral and intellectual improvement. Nor are they wanted to secure for the aborigines the means of subsistence, except in cases, such as fisheries, in which particular spots yield a large proportion of their ordinary or favourite food. At the present time, however, when the Crown is about to demise the whole of the lands over which the flocks and herds of the British settlers have spread; the Council fully recognise the justice and expediency not only of securing for the aboriginal inhabitants, the right of wandering as heretofore, in quest of food, over all lands which the Crown tenants may leave in an unimproved state, but also of reserving small tracts in suitable situations, with a view to their being applied hereafter to the purposes specified in Earl Grey's Despatch of the 11th* February, 1848, or in such other manner as future experience may suggest. The Council therefore advise, that throughout the country lying beyond the settled districts, a suitable number of reserves of moderate extent should be made for the use of the aborigines, and that the reports of the Commissioners of Crown Lands should be referred to the Surveyor-General, in order that he may offer such remarks as he may think necessary, respecting the sites which those officers have proposed, and respecting the extent of land which would be sufficient in each case to meet the object in view. In making this reference, it should be pointed out, that the Council fully concur in the correctness of Earl Grey's conclusion, that the system of large reserves for the aborigines is inapplicable to the circumstances of this colony, and that they cannot approve of such extensive tracts being set apart for the use of the aborigines as are proposed by the Commissioner of Crown Lands, for the district of the Murrumbidgee.

* Page 76.

"The Council fully concur in the opinion expressed by the Superintendent of Port Phillip, that these reserves when brought into use, should remain under the direct control of the Executive Government, and that it would not be advisable to invest them in trustees, as is suggested in Earl Grey's Despatch. The Council also adopt the opinion, that the reserves should be placed under the charge of a medical officer, if possible, and they suggest that an arrangement of this nature may be brought into effect at the station of the Protectorate, in the district of Port Phillip, when the present establishment is broken up at the end of the year.

"The Council recommend that every Commissioner of Crown Lands should be instructed to act in his magisterial capacity as protector of the aborigines within his district, and that he should be under obligation to afford them every assistance in his power. He should also be constituted the official visitor of all aboriginal reserves in his district, and as such should be required to render periodical reports, giving a brief summary of the state of things at each reserve, as noticed by him at his visits of inspection, and exhibiting as nearly in a tabular form as the nature of the subject will allow, the actual use made of the land, the resort to it by the natives, the amount of food and clothing (if any) distributed there, and any other particulars admitting of such recapitulation. The Commissioners should further be required to furnish annual returns, showing the number of aboriginal tribes within their respective districts, and the number of individuals in each tribe, according to the best information which it is in their power to obtain. These returns should be accompanied by reports, setting forth the general habits of the several tribes, and the disposition shown by them towards the European settlers, and giving the fullest possible information as to any services which may have been rendered by the aborigines to the settlers, the degree of perseverance shown in the performance of them, and the nature of the remuneration which formed the inducement to their being undertaken.

* * * * * * *

"In reference to the suggestion of the Surveyor-General, that within the settled districts reserves should be made and set apart for the use of the aborigines at any places known to be still frequented by them, either along the sea-coast, or on streams where they are in the habit of fishing or encamping, the Council recommend that that officer should be requested to report such places of this description as may from time to time fall under his notice, so that a decision may be given on each as to the expediency of reserving it for the use of the aborigines.

"The Council in conclusion recommend that copies of this Minute, and of all the documents on which it is based, should be forwarded to the Right Hon. the Secretary of State, with an assurance that this Government will not fail to turn to practical account the reserves which, in accordance with his Lordship's instructions, it is proposed to make, whenever they can be made conducive to the real benefit or the civilization of the aborigines."

(No. 253.) No. 15.

No. 15.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney, December 18, 1849.

(Received April 23, 1850.)

(Answered July 6, 1850, No. 93, page 89.)

My Lord,

In the month of July 1847, a petition was presented to me signed by a number of the inhabitants of the town of Parramatta, praying for an extension of the benefit of the Quit-rent Regulations of 1846 to the leases under which certain allotments in that town are held.

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2. Having laid this petition before my Executive Council, that Board concurred with me in the opinion, that we could not recognize any such similarity between the quit-rents on granted lands and the rents payable under the condition of the Parramatta leases as would justify us in advising that the latter should be brought within the operation of the regulations of the 9th October, 1846.

3. The leases in question were for the term of 21 years, dated from the 1st July, 1823, and were convertible into grants at any time during their continuance on payment of a fine equal to 21 years' rent, with all arrears. Many persons have availed themselves of this condition, and have obtained the fee-simple estate in the lands on these terms. On the 23rd May, 1844, when the leases of those who had not converted them into grants were on the point of expiring, a petition was presented to my predecessor praying for an extension of time on the following terms:—

"That a period should be allowed of four years, commencing from the 30th June, 1844, for the liquidation of the amounts due according to the following scale, viz.: 25 per cent. of the arrears of quit-rent to be paid at the expiration of each year, and 50 per cent. of the redemption fines at the expiration of each of the last two years of the above period, the occupants to remain as yearly tenants during that term, paying the stipulated rate of quit-rent yearly; and at the expiration of the four years the leases to be converted into grants in fee-simple, provided all claims upon them on the part of the Crown shall have been paid, or, if unpaid, the land to revert to the Crown."

4. This arrangement having been assented to by Sir George Gipps, without any modification of the terms proposed by the leaseholders themselves, the Council concurred with me in opinion that it would not be expedient to depart from it; and I accordingly deemed it my duty to decline to accede to the prayer of the petition.

Sept. 10. 1849. Annexed to Council Minute.

5. On the 10th September last, I received at the hands of the member for Parramatta, Mr. Oakes, a further petition from the leaseholders in that town, a copy of which is annexed, praying for the reasons therein assigned, that I would take their case into my favourable consideration, and recommend such measures as may tend to ameliorate their condition.

October 15. 1849.

6. I deemed it right to submit this petition also for the advice of my Executive Council, with reference to our former proceedings on the subject to which I have referred; and I have now the honour to transmit a copy of our proceedings, from which your Lordship will perceive that it is recommended that the rents should be reduced to four pence per perch, being the rate fixed by the Regulations of 1829 for towns at the head of navigable waters, and that the leaseholds should be converted into grants upon the completion of 20 years' payment at the above rate, either by annual instalments of the amount of the yearly rent, in accordance with the rule prescribed in the notice of the 9th October, 1846, or by an equivalent payment in cash, computed according to the scale laid down in that notice; but that these concessions are not to be construed into having any retrospective effect.

7. The Council also advise that similar concessions should be made to the leaseholders in Liverpool, Newcastle, or any other towns in which allotments are occupied on the same terms as those of Parramatta.

8. It only remains for me to add that my own knowledge enables me to corroborate the statement of the petitioners relative to the great depreciation in the value of landed property both in Parramatta and Liverpool, and also to state that the leaseholders who petitioned Sir George Gipps in 1844 have found it impracticable to fulfil the terms at that time proposed by themselves; and I therefore, have no hesitation in submitting the recommendations of the Council for your Lordship's favourable consideration, and suggesting that the necessary Act of Parliament should be passed for giving them effect.

I have, &c.,

C. A. FITZROY.

The Right Hon. Earl Grey,
&c. &c.

Enclosure 1 in No. 15.

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Encl. 1 in No. 15.

PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Quit Rents due by Leaseholders of Crown Lands in Parramatta and other Towns.

Extract from the Minute No. 49/51, *dated* 15*th October*, 1849.

Members present —

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Secretary.

WITH reference to the proceedings on the 18th September, 1847; relative to the quit-rents on the Parramatta leases, and with reference also to the proceedings on the 30th July, relative to Earl Grey's Despatch on the subject of quit-rents, of the 12th* March, 1849. His Excellency the Governor lays before the Council a further petition from the Parramatta leaseholders, praying that his Excellency will be pleased to take their case into his favourable consideration, and recommend such measures as may tend to ameliorate their condition.

* Page 78. Appended.

2. The Council advise that his Excellency should bring the case of the Parramatta leaseholders under the favourable consideration of the Secretary of State, and recommend that the rents should be reduced to 4*d.* per perch, being the rate fixed by the Regulations of 1829 for towns at the head of navigable waters, and that the leaseholds should be convertible into grants upon the completion of twenty years' payment at the above rate, either by annual instalments of the amount of the yearly rent, in accordance with the rule presbriced in the notice of the 9th October, 1846, respecting quit-rents, or by an equivalent payment in cash computed according to the scale laid down in that notice.

4*d.*

3. These concessions are not to be construed as having any retrospective effect, and any parties who may have obtained grants under the covenants of the lease on less favourable terms will not, therefore, be entitled to have any excess of payment refunded to them.

4. The Council further advise that similar concessions should be made to the leaseholders in Liverpool, Newcastle, and any other towns in which allotments are occupied on the same terms as those in Parramatta, which form the subject of the petition now under consideration.

5. In making the recommendation above advised, it will be necessary to point out that they cannot be carried into effect without an Act of Parliament, as the term allowed for the conversion of the leases into grants has expired; and the case is one, therefore, to which the provisions of the 20th section of the Statute 5 and 6 Vict., c. 36, for the fulfilment of contracts previously entered into by the Government respecting the alienation of lands do not apply.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

Enclosure 2 in No. 15.

Encl. 2 in No. 15.

SIR, Parramatta, September 10, 1849.

I DO myself the honour to transmit a Memorial, signed by 197 leaseholders and other inhabitants of the town of Parramatta, on the subject of quit-rents, and to request you will be pleased to lay the same before his Excellency the Governor.

I have, &c.,

The Hon. the Colonial Secretary. (Signed) GEORGE OAKES.

Enclosure 3 in No. 15.

Encl. 3 in No. 15.

To his Excellency Sir CHARLES AUGUSTUS FITZROY, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the territory of New South Wales and its dependencies, and Vice-Admiral of the same, &c.

The Memorial of the undersigned Leaseholders and other Inhabitants of the town of Parramatta.

MOST HUMBLY SHEWETH,

YOUR Memorialists beg respectfully to approach your Excellency on the ground that they are leaseholders of land in the township and neighbourhood of Parramatta, upon which there is a considerable amount due to the Government for quit-rent.

That the value of land is so depreciated, that the quit-rent in many instances, is equal to the amount which the properties would realize, notwithstanding the improvements that have been made upon many of them.

That while the quit-rent payable upon the leaseholds is calculated at the rate of 140*l.* per acre, the upset price of land at which the Government now permit it to be exposed for sale by auction is only 25*l.* per acre, at which rate it has been actually sold within the last two years.

That your Memorialists humbly submit, that the Colonial Government never intended to exact from them a ground-rent which would prove oppressive, or beyond the actual value of the property leased to them by the Crown.

That your Memorialists feel wholly unable to meet the demands of the Government upon them; and so long as the quit-rent question is unsettled, improvements in the town cannot be

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carried out with any feeling of security, that the properties if improved upon, will not be subject for the amount of quit-rent.

Under these circumstances your Memorialists humbly pray that your Excellency will be pleased to take their case into your favourable consideration, and recommend such measures as may tend to ameliorate the condition of your Memorialists.

And your Memorialists, as in duty bound, will ever pray, &c.

[199 Signatures.]

No. 16. (No. 41.) No. 16.

COPY of a DESPATCH from Governor Sir C. A. FITZROY to Earl GREY.

Government House, Sydney, March 12, 1850.

(Received August 10, 1850.)

MY LORD,

I HAVE the honour to transmit herewith, for your Lordship's information, the following documents, viz.:—

No. 1.

1. An Abstract of the Revenue of the colony of New South Wales, exclusively of the district of Port Phillip, in the years ended 31st December 1848 and 1849, respectively.

No. 2.

2. A similar abstract with respect to the district of Port Phillip.

	£.	s.	d.
General Revenue	334,244	11	8
Territorial Revenue	160,596	3	2
	£494,840	14	10

It will be seen, on reference to these abstracts, that the total amount of revenue received in both districts in the year 1849 was, four hundred and ninety-four thousand eight hundred and forty pounds, fourteen shillings and ten pence, being an excess over the same revenue received in 1848 of ninety-two thousand eight hundred and nine pounds, eight shillings, and five pence. Of this amount, the sum of thirty-four thousand seven hundred and fifty-one pounds, ten shillings, and five pence, was increase of the general revenue; and fifty-eight thousand and fifty-seven pounds, eighteen shillings, an increase of the territorial revenue. It is necessary that I should here explain that the amount of territorial revenue included in the accompanying abstracts, is exclusive of the sum of seventy-seven thousand one hundred and fifty three pounds, fifteen shillings, raised in the colony for immigration purposes in 1849, of which the sum of fifty thousand pounds, is secured on the territorial revenue of the Sydney district, and twenty-five thousand pounds on that of the Port Phillip district; the difference, namely, two thousand one hundred and fifty-three pounds, fifteen shillings, being the amount of premium received on the sale of the land, and immigration debentures issued for the said sums respectively, at an interest of 4*l.* 18*s.* 10¼*d.* per 100*l.* per annum.

£.	s.	d.
92,809	8	5
34,751	10	5
58,057	18	0
77,153	15	0
£50,000		
£25,000		
£	s	
2,153	5	

3. The amount of general or ordinary revenue collected in the year 1849, in the Sydney District was, two hundred and twenty-nine thousand five hundred and twenty-five pounds, sixteen shillings, and ten pence, being an increase on the previous year of sixteen thousand and sixty pounds, fourteen shillings, and seven pence. In the Customs' revenue there is a large increase in every item, excepting the *ad valorem* duty on goods. The deficiency in this case has arisen chiefly from the great diminution in the cost price of tea and sugar in the countries of their production, rather than from any diminution in their consumption. The diminution in the duty on spirits distilled in the colony, is much more than compensated for by the increase in the duty on imported spirits. In the Post-office revenue, and nearly all the other items, there is considerable increase.

£.	s.	d.
229,525	16	10
16,060	14	7

4. The Territorial Revenue for 1849 for the Sydney district amounted to fifty-eight thousand five hundred and fifteen pounds seventeen shillings and three pence; being an increase on the previous year of fourteen thousand seven hundred and ten pounds sixteen shillings and five pence. In the proceeds of the sale of Crown Lands and town allotments there is an increase of six thousand and fifteen pounds nineteen shillings and nine pence; and in the licenses and leases to occupy Crown Lands, of five thousand one hundred and seventy-nine pounds one shilling and seven pence. The other chief increase is two thousand one hundred and thirty-seven pounds seven shillings and six pence in the Land and Immigration Fund, arising from deposits under the notice of 22nd December, 1848.

58,515	17	3
14,710	16	5
6,015	19	9
5,179	1	7
2,137	7	6

5. The General or Ordinary Revenue for Port Phillip in 1849 was one hundred and four thousand seven hundred and thirteen pounds fourteen

shillings and ten pence, being an increase on the previous year of eighteen thousand six hundred and eighty-five pounds fifteen shillings and ten pence. In nearly every item there is a considerable increase, the largest being seven thousand one hundred and sixteen pounds five shillings and one penny, under the head of Duties on Imported Spirits; three thousand six hundred and twenty-nine pounds ten shillings and sixpence, on Imported Tobacco; one thousand five hundred and twenty-six pounds twelve shillings and four pence, for Rents of Wharves and Wharfage; and one thousand three hundred and sixty-five pounds five shillings and eleven pence, for Assessment on Stock beyond the settled districts.

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£.	s.	d.
18,685	15	10
7,116	5	1
3,629	10	6
1,526	12	4
1,365	5	1

6. The Territorial Revenue for Port Phillip in 1849 amounted to one hundred and two thousand and eighty pounds five shillings and eleven pence, being an increase on the previous year of forty-three thousand three hundred and forty-seven pounds one shilling and seven pence. The chief source of increase, it will be perceived, is in the proceeds of the sale of land and town allotments, where it amounts to twenty-five thousand six hundred and seventeen pounds ten shillings. In the Land and Immigration Deposits under the notice of 22nd December, 1848, the increase is sixteen thousand eight hundred and thirty-five pounds; and in every other item there is also an increase to some extent.

43,347	1	7
25,617	10	
16,835	0	0

7. I trust your Lordship will be satisfied from the foregoing statements of the present prosperous condition of the Revenues both in the Sydney and Port Phillip districts.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

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Encl. 1 in No. 16.

Enclosure 1 in No. 16.

ABSTRACT of the REVENUE of the Colony of New South Wales, exclusively of the District of Port Phillip, in the Years ended 31st December, 1848, and 1849, respectively, showing the Increase or Decrease under each Head thereof.

HEAD OF REVENUE.	Year ended 31st December, 1848.	Year ended 31st December, 1849.	Decrease.	Increase.
GENERAL REVENUE.				
TAXES, DUTIES, RATES, AND IMPOSTS.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Customs. Duties on Spirits Imported. (year 1848, 281,137 galls.; do. 1849, 330,399 do.)	63,851 13 2	73,183 17 0	..	9,332 3 10
Customs. Duties on Tobacco Imported	36,089 15 3	38,124 0 2	..	2,034 4 11
Customs. *Ad valorem* Duties on Foreign Goods Imported	18,985 11 4	16,775 2 0	2,210 9 4	..
Customs. Fees on the Entry and Clearance of Vessels and Lighthouse Dues	1,698 2 0	1,990 10 9	..	292 8 9
Rents of Wharves	1,168 5 1	1,133 10 3	34 14 10	..
Duties on Spirits distilled in the Colony (year 1848, 52,753 galls.; do. 1849, 24,899 do.)	9,231 15 6	4,357 6 6	4,874 9 0	..
Post Office Collections	14,458 9 3	15,462 9 10	..	1,004 0 7
Auction Duty and Licenses to Auctioneers	3,836 13 4	3,184 9 1	652 4 3	..
Licenses to Distil, and to Retail Fermented Spirituous Liquors	23,074 12 4	25,532 2 9	..	2,457 10 5
Collected for Night Licenses to Publicans, and for Billiard Tables	2,440 0 0	2,510 0 0	..	70 0 0
Licenses to Pawnbrokers	..	40 0 0	..	40 0 0
,, Hawkers and Pedlars	264 0 0	218 0 0	46 0 0	..
Rents of Tolls and Ferries	3,972 0 4	6,843 14 8	..	2,871 14 4
Assessments on Live Stock Depastured beyond the Settled Districts	14,095 12 4	15,441 10 0	..	1,345 17 8
Collected as Tonnage Duty, for the support of the Water Police	695 5 0	802 2 3	..	106 17 3
	193,861 14 11	205,598 15 3	7,817 17 5	19,554 17 9
FEES AND FINES OF PUBLIC OFFICES.				
Fees of Civil Offices	2,441 13 7	2,429 10 9	12 2 10	..
,, the several Offices of the Supreme Court	4,361 4 3	3,609 0 5	752 3 10	..
,, the Courts of Request	1,579 3 6	1,614 18 6	..	35 15 0
,, ,, Petty Sessions	2,090 10 6	2,099 4 9	..	8 14 3
,, collected under the Disputed Boundaries Act	..	659 10 4	..	659 10 4
Fines collected by the Sheriff	132 10 0	466 2 0	..	333 12 0
,, in the several Courts of Petty Sessions	1,540 13 7	1,073 14 9	466 18 10	..
,, under the Crown Lands Act	832 0 0	410 0 0	422 0 0	..
	12,977 15 5	12,362 1 6	1,653 5 6	1,037 11 7
Proceeds of the Sale of Allotments in the Government Domain and old Military Barracks	600 0 0	7,073 6 0	..	6,473 6 0
Collections by the Government Printer	1,023 5 7	890 5 8	132 19 11	..
Proceeds of the Sale of Public Property	831 0 4	981 8 9	..	150 8 5
,, ,, Confiscated and Unclaimed Property	238 9 0	606 12 9	..	368 3 9
Crown share of Seizures by the Department of Customs and Inspectors of Distilleries	181 5 4	316 9 5	..	135 4 1
Payment for the Treatment of Patients in the Lunatic Asylum	214 2 3	173 4 3	40 18 0	..
Payment for the Maintenance of Soldiers confined in Gaol	162 14 0	84 0 0	78 14 0	..
Payment for the Maintenance of Convicts confined in Cockatoo Island	..	384 0 0	..	384 0 0
Payment for the Services of the Water Police in preventing the Escape of Convicts by Sea	233 7 2	233 7 2	..	..
Unclaimed Ballances of Intestate Estates	3,139 12 2	435 8 8	2,704 3 6	..
Surcharges recovered	1 16 1	386 17 5	..	385 1 4
	6,625 11 11	11,565 0 1	2,956 15 5	7,896 3 7
	213,465 2 3	229,525 16 10	12,427 18 4	28,488 12 11
CROWN REVENUE.				
Proceeds of the Sale of Land and Town Allotments	7,024 6 6	13,040 6 3	..	6,015 19 9
Quit Rents and Redemption of Quit Rents	4,437 13 2	4,029 8 5	408 4 9	..
Licenses and Leases to occupy Crown Lands	27,657 7 10	32,836 9 5	..	5,179 1 7
,, to cut Timber on Crown Lands	344 0 0	298 0 0	46 0 0	..
Rents of Government Quarries and Premises	156 1 0	123 16 0	32 5 0	..
Collected by the Agent for the Clergy and School Estates	4,116 16 10	5,663 6 8	..	1,546 9 10
Fees of the Court of Claims to Grants of Land	30 18 0	29 13 6	1 4 6	..
Proceeds of the Sale of Public Property	35 10 3	149 9 6	..	113 10 3
Land and Immigration Fund	..	2,137 7 6	..	2,137 7 6
Repayment of Gratuities to Officers of a Convict Ship	..	149 0 0	..	149 0 0
Surcharges recovered	2 7 3	59 0 0	..	56 12 9
	43,805 0 10	58,515 17 3	487 14 3	15,198 10 8
	257,270 3 1	288,041 14 1	12,915 12 7	43,687 3 7
			Deduct Decrease £	12,915 12 7
			Increase on the Year £	30,771 11 0

Audit Office, Sydney, New South Wales, January 4, 1850.

WM. LITHGOW, Auditor-General.

NEW SOUTH WALES.

Encl. 2 in No. 16.

Enclosure 2 in No. 16.

ABSTRACT of the REVENUE of the District of Port Phillip, in the Colony of New South Wales, in the Years ended 31st December, 1848 and 1849 respectively, showing the Increase or Decrease under each Head thereof.

HEAD OF REVENUE.	Year ended 31st December, 1848.	Year ended 31st December, 1849.	Decrease.	Increase.
GENERAL REVENUE.				
TAXES, DUTIES, RATES AND IMPOSTS.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Customs. Duties on Spirits Imported. (year 1848, 120,183 galls. / ds. 1849, 153,267 do.)	28,049 15 3	35,166 0 4	..	7,116 5 1
Customs. Duties on Tobacco Imported	17,611 4 1	21,240 14 7	..	3,629 10 6
Customs. *Ad valorem* Duties on Foreign Goods Imported	7,337 19 1	8,817 5 2	..	1,479 6 1
Customs. Fees on the Entry and Clearance of Vessels and Lighthouse Dues	1,047 3 7	1,721 0 7	..	673 17 0
Rent of Wharves and Wharfage	450 0 0	1,976 12 4	..	1,526 12 4
Post Office Collections	6,254 3 10	6,951 11 11	..	697 8 1
Auction Duty, and Licenses to Auctioneers	1,418 4 0	1,954 11 1	..	536 7 1
Licenses to Distil and Retail Fermented and Spirituous Liquors	7,747 16 10	8,460 16 0	..	712 19 2
Collected for Night Licenses to Publicans, and for Billiard Tables	970 0 0	960 0 0	10 0 0	..
Licenses to Hawkers and Pedlars	90 0 0	54 0 0	36 0 0	..
,, Pawnbrokers	..	10 0 0	..	10 0 0
Assessment on Live Stock Depastured beyond the Settled Districts	10,413 0 0	11,778 5 11	..	1,365 5 11
Collected as Tonnage Duty, for the support of the Water Police	338 3 9	706 19 9	..	368 16 0
	81,727 10 5	99,797 17 8	46 0 0	18,116 7 3
FEES AND FINES OF PUBLIC OFFICES.				
Fees of Civil Offices	519 10 0	544 16 0	..	25 6 0
,, the several Offices of the Supreme Court	1,894 8 3	2,457 2 0	..	562 13 9
,, the Courts of Requests	539 7 6	549 3 6	..	9 16 0
,, ,, Petty Sessions	531 14 5	609 0 0	..	77 5 7
Fines collected by the Deputy Sheriff	35 15 0	119 0 0	..	83 5 0
,, in the several Courts of Petty Sessions	318 10 6	430 0 8	..	111 10 2
,, under the Crown Lands Act	13 0 0	119 0 0	..	106 0 0
	3,852 5 8	4,828 2 2	..	975 16 6
Store Rent of Gunpowder	4 19 9	23 9 10	..	18 10 1
Proceeds of the Sale of Public Property	371 15 2	0 19 3	370 15 11	..
,, ,, Confiscated and Unclaimed Property	13 4 3	..	13 4 3	..
Crown share of Seizures by the Department of Customs, and Inspectors of Distilleries	25 14 2	38 15 2	..	13 1 0
Payment for the Treatment of Patients in the Lunatic Asylum	..	13 2 8	..	13 2 8
Payment for Work performed by Prisoners in Gaol	..	11 10 8	..	11 10 8
Repayment for Supplies to the Superintendent of the Cape Otway Light House	..	4 13 4	..	4 13 4
Surcharges recovered	32 9 7	0 4 1	32 5 6	..
	448 2 11	92 15 0	416 5 8	60 17 9
	86,027 19 0	104,718 14 10	462 5 8	19,153 1 6
CROWN REVENUE.				
Proceeds of the Sale of Land and Town Allotments	38,951 3 6	64,568 13 6	..	25,617 10 0
Licenses and Leases to Occupy Crown Lands	19,061 10 10	19,546 4 0	..	484 13 2
,, to Cut Timber on Crown Lands	480 0 0	696 0 0	..	216 0 0
Rents of Government Quarries and Premises	115 0 0	160 0 0	..	45 0 0
Proceeds of the Sale of Public Property	125 10 0	274 8 5	..	148 18 5
Land and Immigration Fund	..	16,835 0 0	..	16,835 0 0
	58,733 4 4	102,080 5 11	..	43,347 1 7
	144,761 3 4	206,799 0 9	462 5 8	62,500 3 1
		Deduct Decrease . . £		462 5 8
		Increase on the Year . . £		62,037 17 5

Audit Office, Sydney, New South Wales,
January 24, 1850.

WM. LITHGOW.
Auditor-General.

NEW SOUTH WALES.

No. 17.

No. 17.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

My Lord, Government House, Sydney, March 12, 1850.

(Received August 10, 1850.)

* Page 64.

In my Despatch No. 41* of this date, I forwarded to your Lordship comparative statements of the revenue collected in the Sydney and Port Phillip districts respectively in the years 1848 and 1849; and I have now the honour to transmit, for your Lordship's further information, "An Abstract of the Receipt and Appropriation of the Revenues of the Colony of New South Wales, in the year 1849."

2. Your Lordship will see that this Abstract has been arranged so as to show separately the General or Ordinary Revenue from the Territorial Revenue, and the charges on each respectively, as well as those borne on the Schedule Fund, as appropriated under the Constitution Act, 5 and 6 Vict., cap. 76. The Revenue and Expenditure in the Sydney and Port Phillip districts respectively are also separately shown.

3. The total amount of the General or Ordinary Revenue for the whole colony, collected in 1849, it will be seen was £337,190 7 6
which, together with the balance remaining unexpended on the 31st December, 1848, viz. 30,573 15 1

made a total of 367,764 2 7
applicable to the service of 1849; and the total amount actually charged on this revenue in 1849 was . . . 331,655 8 9

leaving on the 31st December a balance of 36,108 13 10
to its credit, applicable to payments in the year 1850. Of this balance, the sum of 13,813*l.* 2*s.* 9*d.* belongs to the Schedule Fund.

4. The total amount of the Territorial Revenue for the whole colony collected in 1849, was 238,501 17 3
which, together with the balance remaining unexpended on 31st December, 1848, viz. 72,096 18 8

made a total of 310,598 15 11
applicable to the service of 1849; and the total amount actually charged on this revenue in 1849, was . . . 201,833 11 10

leaving on the 31st December, 1849, a balance of . . . 108,765 4 1
to its credit, applicable to payments in the year 1850. It will be perceived, that in this revenue are included the proceeds of land and immigration debentures amounting to . . 77,153 15 0

Of this amount, the sum of 50,000 0 0
is secured on the territorial revenue of the Sydney district, and on that of the Port Phillip district 25,000 0 0
The difference 2,153 15 0

£ 77,153 15 0

being the amount of premium received on the sale of the debentures which bear an interest at the rate of $3\frac{1}{4}d.$ per 100*l.* per diem, or 4*l.* 18*s.* $10\frac{1}{4}d.$ per 100*l.* per annum, and are redeemable in three years from the date of their issue, at the option of the Government, or five years from that date, at the option of the holder.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Enclosure in No. 17.

ABSTRACT of the RECEIPT and APPROPRIATION of the REVENUES of the Colony of New South Wales in the Year 1849.

RECEIPTS.	Sydney.	Port Phillip.	Totals	Balances on 31st December, 1848.	General Totals.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.	£. s. d.
GENERAL REVENUE.					
Taxes, Duties, Rates, and Imposts . .	206,421 10 3	99,855 4 4	306,276 14 7		
Fees and Fines of Public Offices and Courts of Justice	11,539 6 6	4,512 7 8	16,051 14 2	30,573 15 1*	367,764 2 7
Incidental and Special Receipts, including Droits of the Crown	14,616 0 7	245 18 2	14,861 18 9		
Total General Revenue. . .	232,576 17 4	104,613 10 2	337,190 7 6		
TERRITORIAL REVENUE.					
Proceeds of Land Sold	13,040 6 3	65,621 3 0	78,661 9 3		
Quit Rents and Redemption of Quit Rents	4,029 8 5	. .	4,029 8 5		
Rents of Land temporarily Leased . .	6,353 4 3	2,843 7 9	9,196 12 0		
Licenses to Depasture Stock beyond the Settled Districts	26,483 5 2	16,248 0 0	42,731 5 2		
Land and Immigration Deposits . .	2,550 17 6	16,690 0 0	19,240 17 6		
Miscellaneous Revenue	808 19 0	1,016 4 3	1,825 3 3	72,096 18 8	310,598 15 11
	53,266 0 7	102,418 15 0	155,684 15 7		
Clergy and School Fund—Collections by the Agent	5,663 6 7	. .	5,663 6 8		
Proceeds of the Sale of Land and Immigration Debentures	51,403 15 0	25,750 0 0	77,153 15 0		
Total Territorial Revenue . .	110,333 2 3	128,168 15 0	238,501 17 3		
Totals	342,909 19 7	232,782 5 2	575,692 4 9	102,670 13 9	678,362 18 6

DISBURSEMENTS.	Sydney.	Port Phillip.	Totals.	Balance on the 1st December, 1848.
	£. s. d.	£. s. d.	£. s. d.	£. s. d.
Charged on the—				
General Revenue	172,065 18 6	59,468 0 6	231,533 19 0	
Schedule Fund	74,075 9 4	13,294 6 7	87,369 15 11	
Advances to Public Officers for Services chargeable on the General Revenue, unadjusted on 31st December, 1849	1,678 13 10	11,073 0 0	12,751 13 10	36,108 13 10*
Total charged on the General Revenue	247,820 1 8	83,835 7 1	331,655 8 9	
CHARGED ON THE TERRITORIAL REVENUE.				
Survey, Sale, and Management of Crown Lands	29,350 2 1	12,419 3 7	41,769 5 8	
Immigration Expenses, including Interest on Land and Immigration Debentures	77,657 2 9	66,206 8 10	143,863 11 7	
Aborigines	2,057 16 0	2,290 16 1	4,348 12 1	
Miscellaneous Expenses	6,377 9 11	1,270 19 2	7,648 9 1	108,765 4 1
Advances to Public Officers for Services chargeable on the Crown Revenues, unadjusted on the 31st December, 1849	50 0 0	4,153 13 5	4,203 13 5	
Total charged on the Territorial Revenue	115,492 10 9	86,341 1 1	201,833 11 10	
Totals	363,312 12 5	170,176 8 2	533,489 0 7	144,873 17 11

* Of this balance, 19,322*l.* 18*s.* 8*d.* stood to the credit of the Schedule Fund on the 31st December, 1848.

* Of this balance, 13,813*l.* 2*s.* 9*d.* stood to the credit of the Schedule Fund on 31st December, 1849.

Audit Office, Sydney, New South Wales,
14th February, 1850.

WM. LITHGOW, Auditor.

NEW SOUTH WALES.

No. 18.

(No. 43.) No. 18.

Copy of a DESPATCH from Governor Sir C. A. FitzRoy to Earl Grey.

Government House, Sydney,
March 13, 1850.

My Lord, (Received August 10, 1850.)

I have the honour to acknowledge the receipt of your Lordship's Despatch No. 48,* of the 7th April, 1849, suggesting, with reference to certain representations which had attracted your Lordship's attention, of the delay and difficulty experienced by persons desirous of purchasing land in this colony, the propriety of keeping the surveys in districts where land is likely to be required, in considerable advance of the demand, in order that it may be generally obtainable without undue competition; and also of opening in each district wherein such demand exists, a local office for affording information as to the position and price of its lands, and transacting their sale.

* Page 80.

2. I have the honour to transmit herewith, for your Lordship's information, copies of the following documents relating to this question, viz.:—

The Surveyor-General's letter No. 437, of the 4th September, 1849, addressed to the Colonial Secretary.

Minute of proceedings of the Executive Council, on the 1st October, 1849, No. 49.

The Surveyor-General's letter to the Colonial Secretary, No. 542, of the 24th October, 1849.

Minutes of proceedings of the Executive Council on the 4th December, 1849, No. 58.

The Superintendent of Port Phillip's letter, No. 17, of the 16th January, 1850, to the Colonial Secretary.

3. By the first of these it will be seen by your Lordship that so far as regarded the removal of impediments to the sale of town and suburban lots of land, your Lordship's suggestion had been partially anticipated, and the necessity for establishing some species of branch-offices for the purposes recommended by your Lordship had forced itself upon the consideration of this government.

4. On the receipt of your Lordship's Despatch, above acknowledged, I lost no time in bringing this important subject before my Executive Council in order to the consideration of the more extended view of it presented in that communication.

5. The Minutes and correspondence herewith transmitted will put your Lordship in possession of the recommendations of the Executive Council as to the manner in which, from local experience and information, it is considered desirable to carry out your Lordship's suggestion; and in the propriety of the measure proposed by the Council for this purpose, I beg to express my entire concurrence.

6. These recommendations may be briefly adverted to as consisting of—

1. An amendment of the Act of the Imperial Parliament 5 and 6 Vict., c. 36, so as to enable the Governor to sell town and suburban allotments without competition, after they have once been exposed to public auction, in the same manner and under the same restrictions as he is now authorized, by the 12th section of that enactment, to sell country lots; adding, however, a distinct provision as respects all land whatsoever, that it shall be in the power of the Governor to withdraw any of them from the list of those purchaseable without competition, and to dispose of them in any manner not inconsistent with the statute cited, which may be expedient for the public interest.

2. A deposit in the custody of the Clerk of Petty Sessions in each district, of lists and plans and lands obtainable without competition, for the information of the public.

3. Local sales at the principal place of holding Courts of Petty Sessions in each of the police districts, as well within as beyond the settled districts, of lands which yet require to be subjected to auction. The sales in the county of Cumberland, it is intended, should be conducted in all respects as heretofore at Sydney, which, it is conceived, will be the most convenient arrangement at present in respect to the lands situated therein.

NEW SOUTH WALES.

7. Your Lordship will perceive that it is expected that these recommendations, which it is my intention to carry into effect as far as rests with me, and the present state of the law will admit, without delay, will afford the facilities desired without occasioning the expense of establishing land offices attached to the survey department in any other district than that of Moreton Bay, where, as your Lordship is aware, an office of that character already exists.

8. The recommendations have, however, reference only to the middle or Sydney district of New South Wales. The letter from Mr. La Trobe, to whom the opinion of the Council was imparted as to the course to be pursued in this portion of the colony, may lead to a different conclusion in some respects in regard to the district of Port Phillip.

9. The alteration proposed in the Act 5 and 6 Vict. c. 36, already mentioned, is, in the Superintendent's judgment, equally necessary, and well suited to the southern province as to this.

10. The mode of affording information, and effecting sales by means of the Clerks of Petty Sessions, appears to his Honour to promise a less degree of efficacy, owing to the less perfect machinery for the purpose that exists there; and I am not desirous of attempting any measure doubtful in its effects during the present relations of that province with the colony of New South Wales proper.

I have, &c.

The Right Hon. Earl Grey, &c., &c., &c. (Signed) C. A. FITZROY.

No. 49/437. Enclosure 1 in No. 18. Encl. 1 in No. 18.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, relative to the impediments to the Sale of Town and Suburban Lots of Land.

SIR, Surveyor General's Office, Sydney, September 4, 1849.

I HAVE the honour to represent, for the consideration of his Excellency the Governor, that it would be most expedient and desirable to submit to Her Majesty's Government the necessity for allowing town and suburban lots of land to be obtained without competition, after they have once been offered for sale at auction, as is provided with respect to the country lots of land by the 12th clause of the Waste Lands' Act, 5 and 6 Vict., No. 36.

2nd. I am induced to bring this subject under notice in consequence of the necessity for some alteration in the system being constantly pressed upon my attention by the very objectionable working of this part of the Waste Lands' sale sub-arrangements.

3rd. I find parties extremely anxious to purchase, that applications are made to the Government for laying out of towns and villages, and yet in many cases they do not eventually purchase.

4th. This state of things I can only attribute to the expense and difficulty attending a journey to Sydney, an expense far greater, perhaps, than the 4*l.* which would be the price of an allotment, whereas, could the parties transmit their 4*l.* to the Colonial Treasurer, their object would be accomplished without further expense. A reference to the Colonial Treasurer's Return of Sales will show how many allotments, urgently asked to be put up, remain unsold, sale after sale.

5th. I am aware that Her Majesty's Government intended to meet in some measure the difficulty alluded to by the establishment of branch-offices; but the immense extent of territory now open to unconnected selections for purchase, and the necessity for laying out towns and villages in every direction, to meet the provisions of the Government notice of the 4th September 1848, render it impossible that a sufficient number of branch-offices could be established without incurring an expense altogether incommensurate with the probable proceeds of sales, whereas, with the aid of the licensed surveyors in the districts, and the deposit of plans of towns with the surveyors and with the different benches, the difficulty which at present forms such a serious impediment to the concentration of population required in some spots, would be overcome by the unshackled and ready disposal of allotments. But under the present system the allotments are mostly bought by speculators, and sold at an advance to those who really desire to make use of them, they being too poor to travel to Sydney, or too ignorant to venture upon the employment of an agent.

6. Another serious impediment to the judicious disposal of town and suburban lots is the delay which unavoidably results from an adherence to the auction system. A month's notice is the least time that can be given of a sale, so that two or three months frequently elapse before the sale takes place, and then the applicant may be opposed, and have the land bought over his head, and forced again to go through the same disheartening process, to be again and again, perhaps, disappointed; besides, the greatest inconvenience and embarrassment result in the official conduct of the business, for patches of allotments may be partly sold, partly not sold, or the deposit of 10 per cent. may be forfeited, then those that are not sold go through the same process again, entire or not entire, or mixed with others, to be again sold, rejected, or forfeited, until the complication becomes so great that it is next to impossible to avoid re-sales,

NEW SOUTH WALES.

whereas, were lots, after having been offered at auction, open to sale at once, the sale would be registered at the Treasury, and no mistake could arise about the lots.

7th. A facility in obtaining town and suburban lots would also tend in a great measure to prevent the illegal occupancies which are now to be found in every corner of the colony, large as it is, particularly in the counties west of the Blue Mountains. The difficulty of obtaining land is an excuse for these illegal occupancies, and a melancholy result is that the children are deprived of all means of education and civilization, so that the next generation may prove lawless and uncivilized; and even at present I fear too many of these small squatters are engaged in cattle stealing.

8th. I was always averse to this arrangement of the Waste Lands' Act, shutting up the town and suburban lots of land from immediate sale; and a watchful observance of the working of the system has convinced me that nothing could be more unsuited to the wants and peculiarities of his colony.

9th. The auction system is pregnant with delay and difficulty to the purchaser even in its best form, that of allowing the lands remaining unsold at auction to be obtained by private tender, but when that facility is denied to the intending purchaser of town or suburban lots, which are those most sought after in a grazing community, a serious impediment is offered to the very necessary establishment of centres of population; and the day labourer, the mechanic, the storekeeper, and the innkeeper are driven by necessity to intrude upon Crown lands.

I have, &c.,

(Signed) T. L. Mitchell.

Encl. 2 in No. 18.

Enclosure 2 in No. 18.

Minute of Proceedings of the Executive Council on the 1st October, 1849, relative to a Despatch from the Secretary of State respecting the necessity of keeping up the Surveys of Land.

49/49. Confirmed 10th October. Approved 13th October.

His Excellency the Governor lays before the Council a Despatch from the Secretary of State (7th April, 1849), calling attention to the importance of keeping the surveys well in advance of the demand in the districts where land is likely to be purchased, and suggesting that more land than there is a prospect of selling should be offered at the periodical sales, so as to be purchasable without competition, and that in each district of the colony where land is at all in demand there should be an office constantly open, where land of which the value has been tested by being put up to auction, may be always obtainable without trouble or delay by persons desirous of purchasing it.

2. The Council advise that this Despatch should be referred to the Surveyor-General, for any remarks which he may have to offer on the subject of facilitating the sale of land in addition to those made in his letter of the 4th ultimo, which are under the consideration of the Council. The Council further suggests that it should be intimated to the Surveyor-General that the Government is disposed to form land offices of the description proposed by the Secretary of State, at Moreton Bay, and at three other places in this portion of the colony, to be selected with reference to the convenience of settlers in the northern, western, and southern districts respectively. The Surveyor-General should accordingly be requested to state the places at which it would be, in his opinion, most expedient to establish the offices, bearing in mind the demand which is likely to arise for land beyond, as well as within the settled districts. The Surveyor-General should also be called upon for an estimate of the cost at which an office of the required description could be maintained.

I have, &c.,

Executive Council Office, Sydney, 11th October, 1849. 49/246.

(Signed) Francis L. S. Merewether, Clerk of the Council.

Encl. 3 in No. 18.

No. 49/542.

Enclosure 3 in No. 18.

The Surveyor-General to the Colonial Secretary, relative to Branch-Offices for facilitating the sale of Crown Lands.

Sir, Surveyor-General's Office, Sydney, October 24, 1849.

I have the honour to acknowledge the receipt of your letter, No. 49/527, of the 18th October, informing me that you are directed by his Excellency the Governor, on the recommendation of the Executive Council, to enclose a copy of a despatch from the Secretary of State for the Colonies on the subject of facilitating the sale of Crown Lands, and to request me to submit to his Excellency any remarks which I may have to offer in addition to those made in my letter of the 4th September, 49/437, and intimating that the Government is disposed to form land officers, as proposed by the Secretary of State, at Moreton Bay, and three other places in the north, and west, and south, and that his Excellency requires my opinion as to the most convenient places at which to establish such officers, bearing in mind the demand which is likely to arise for lands beyond, as well as within the settled districts; and further, that I am to furnish an estimate of the cost at which such an office may be maintained.

2. As your letter, and the accompanying despatch, involve many weighty considerations, I may perhaps be excused if I request that, in this stage of the business, the observations I am

about to make, for the information of his Excellency the Governor, may be considered merely as a preliminary discussion.

3. With respect to the most convenient places for establishing branch-offices, bearing in mind the demand which is likely to arise for lands beyond, as well as within, the settled districts, I have to observe that the places, where I anticipated the demand for land is likely first to be made in the squatting districts, are far more remote from the borders of the settled districts than those borders are from Sydney, and consequently the establishment of branch-offices in suitable places in the squatting districts, could not be made to embrace the business of any part of the twenty counties. This being the case, it does not appear to me that the establishment of branch-offices is immediately required (Moreton Bay excepted) because the sale of lands in these remote regions has not yet commenced; and because, as regards the twenty counties (otherwise settled districts) I expect, with the aid of the licensed surveyors and the benches, that the sales of land and of leases, may be so conducted in the principal towns thereof, that the convenience of the public shall be fully met thereby, as explained in my letter of 4th September. Indeed it appears to me to be extremely desirable, on account of the complexity and difficulties that have arisen from the lease regulations of the 29th March, 1848, that the business of the twenty counties should be under one control, and that it would be scarcely possible to avoid most serious inconvenience were the arrangements for leasing land to be subject to any subordinate interference; that, in fact, nothing less than the most distinct responsibility in the branch-offices would serve to keep the leasing business in a satisfactory state of it were divided.

4. Having thus disposed of the questions of the expediency of establishing branch-offices, and the distribution thereof, I proceed to consider the subject of the constitution of such offices, and the cost thereof as required by your letter, should these establishments be determined upon.

5. The officer to be placed in charge should be a man of business habits as well as of experience in the surveys of the colony, and a good draftsman; and if it were expected or intended that he should be always in the office, then he would not need an equipment; if, however, it were otherwise considered necessary that such an officer should survey and inspect the district under his control, then he would require an equipment and men; and it would, in such case, be necessary to have a junior as clerk and draftsman to be in constant attendance at the office; but even this junior should be a person of intelligence, as he would oftentimes have to exercise a wide discretion; and I am of opinion, therefore, that the surveyor in charge should not be called on to survey; but, as the occasional inspector of the country, it would be necessary that he should be allowed forage for a horse, and such other accommodation as might balance his loss of equipment. The time of such an officer would be fully taken up in affording information to the public, in corresponding with the office in Sydney, and with individuals, and in the preparation of maps, and plans, and registers.

6. I conclude that it is not intended that the conduct of surveys should be entrusted to the branch-offices, as was required by circumstances, and has been done at Port Phillip, but that all the surveys and alienations should be under my immediate control, as is now the case with the office at Moreton Bay.

7. The despatch recommends that the branch-offices should be always open, so that the lands which have been submitted to auction, and are open to selection, may always be obtainable without trouble or delay by persons desirous of purchasing them; it becomes a matter for consideration, therefore, whether the surveyor in charge is to become the receiver of public monies, or whether a branch of the Treasury department, is to be attached to the branch-offices, for the purpose of receiving monies, keeping open registers of lands for sale and lease, and issuing the necessary receipts to purchasers, and to the various branches of the department.

8. It will be necessary also, as alluded to in paragraph No. 3, if the absolute sale of lands and leases is to be made in the branch-offices, to define the limits over which the superintendence of such officers is to extend; because, if it were not so, if all lands were obtainable in Sydney as well as at the branch-offices, it might arise that purchases would be made of the same lands and leases at both places before communication could take place between the offices.

9. As regards the settled districts, therefore (otherwise the 20 counties), I do not see that branch-offices, in the present state of the land business, could be satisfactorily worked; whereas the existing arrangements seem calculated to afford every facility to purchasers: for lists of the lands open for sale might be forwarded by the Treasurer for deposit with the clerks of benches; and as regards the squatting districts, I would recommend the establishment of offices, in the first instance, in the south and north only, say at Deviliquin or Balranald, and at Armidale, so soon as the sale of lands may render the establishment of such offices necessary; but this, with the exception of a few town and suburban lots in places far removed, can scarcely be, until the leases of the runs have been issued, and the lessees begin to exercise their right of pre-emptive purchase, and also until the population have increased. Any interference of a branch-office with the squatting regulations is not, I apprehend, contemplated, and, consequently, until that business is disposed of, there would seem to be but little employment for the officers of a branch-office in the squatting districts.

10. It will thus appear, that this subject resolves itself into three distinct questions, viz., the distribution of branch-offices, the constitution of such branch-offices, and whether such offices are at the present moment required. If the latter be decided in the negative, then the two former fall to the ground, and there is an end of the matter for the present. On the other hand, I shall be prepared to afford any further information, or to assist in carrying out any views which His Excellency the Governor and Executive Council may consider it expedient to adopt.

NEW SOUTH WALES.

11. I append a separate statement of the probable expense per annum of a branch-office as required by your letter, merely observing that the extent of allowance or indulgence to the officer in charge, if any, should be distinctly specified. I mean whether apartments are to be found for him in the office with fuel and light; whether the house-keeper or messenger is to be considered as his servant, &c. &c.

I have, &c.,

The Colonial Secretary. (Signed) T. L. Mitchell.

Encl. 4 in No. 18. 49/317. Enclosure 4 in No. 18.

Minute of Proceedings of the Executive Council on the 4th December, 1849, relative to the establishing of Country Land Offices.

49/58, Confirmed 11th December.—Approved 22nd December.

Executive Council Office, Sydney, December 21, 1849.

Referring to the proceedings on the 24th September and the 1st October last, His Excellency the Governor lays before the Council a letter from the Surveyor-General (24th October) reporting on the questions suggested by Earl Grey's Despatch of the 7th April, 1849, No. 48, which had been referred to him under the advice given by the Council on the latter of the above-mentioned dates.

2. Having considered this letter, the Council submit the following recommendations, with a view to facilitate the sale of land in the country districts of the colony.

1. The Council advise, that a copy of the Surveyor-General's letter of 4th September, 1849, No. 437, should be forwarded to the Right Hon. the Secretary of State, with a recommendation, that the Statute 5 and 6 Vict., c. 36, should be so amended as to enable the Governor to sell town and suburban lots without competition, in the same manner and under the same restrictions as he is now authorized by the 12th section of that enactment to sell country lots. It would, however, be desirable to add a distinct provision, as respects all such lots, that it shall be in the power of the Governor to withdraw any of them from the list of those purchaseable without competition, and to dispose of them in any manner consistent with the provisions of the Statute 5 and 6 Vict., c. 36, which may be expedient for the public interest.

2. The Council advise, that lists of all lots of land, which, having been once offered for sale by auction, are purchaseable without competition, with the prices at which they may be severally obtainable affixed, and with maps showing their positions, should be placed under the charge of the Clerk of Petty Sessions for the district in which they are situated; and that he and the licensed surveyor should be instructed to afford all such information as may be required by intending buyers coming to inspect the lists and plans. In this manner, persons having learned all necessary particulars on the spot, will be enabled to make their purchases without employing an agent in Sydney, or making a journey there themselves, by simply remitting the price of the land to the Colonial Treasurer.

3. The Council advise that lands in the county of Cumberland should be sold at Sydney, as at present; but that all lands beyond that county should be put up for sale at the principal place of petty sessions in the police district in which they are situated, so that the persons having a knowledge of the land and really desiring it for their own use, may be enabled to attend the sale without inconvenience or expense.

3. The Council are of opinion, that under the arrangement above proposed, sufficient facilities for the purchase of land by residents in the country will be afforded, and that there is at present no occasion to incur the expense of establishing land offices, under the charge of an officer of the Survey Department, in any other district than that of Moreton Bay, where one already exists.

4. In making the above recommendations, the Council have had reference only to this portion of the colony; but they now advise that the Superintendent of Port Phillip should be informed of the course intended to be pursued here, and be requested to offer any suggestions which he may think fit respecting any similar arrangements which it may be desirable to make in that district.

(Signed) Francis L. S. Merewether, Clerk of the Council.

Encl. 5 in No. 18. 50/17 Enclosure 5 in No. 18.

The Superintendent of Port Phillip to the Hon. the Colonial Secretary, with reference to the Sale of Crown Lands.

Sir, Superintendent's Office, Melbourne, January 16, 1850.

I have the honour to acknowledge the receipt of your letter, dated the 31st December last, No. 49/942, transmitting a copy of the recommendations which have been made by the Executive Council, with a view to facilitate the sale of land in the Sydney district, and in obedience to his Excellency's instructions, take leave to make the following brief remarks:—

2. I fully concur in the expediency of making the recommendation, which is proposed for the consideration of the Right Hon. the Secretary of State, that an alteration in the Act 5 and 6 Vict., cap. 36, so as to allow the Governor to sell town and suburban lots without

competition in the same manner as he is now authorized by the 12th section of that enactment to sell country lots, and that distinct provision be made, as respects all such lots, that it shall be in the power of the Governor to withdraw any of them from the list of those purchaseable without competition, and to dispose of them in any manner consistent with the provisions of the statute 5 and 6 Vict., cap. 36, which may be expedient for the public interest.

3. I may here remark, I consider that it would be to the public advantage if the Governor possessed the power of directing the subdivision of lots, of the description in question. Without such act of subdivision entailing their withdrawal from the class of lands open to selection at upset price; and that, if held requisite, provision should be specially made to this end, I take it for granted that if the alteration in the law above adverted to be carried into effect, there would be no obstacle in the way of subdivision of any lot which might be withdrawn from selection, and the subsequent presentation of the subdivisions to public competition at any upset price which might be judged expedient.

4. It would appear necessary, as far as Port Phillip is concerned, to define what is meant by the term country districts, or perhaps the better and safer plan will be to leave it to the Governor, to exempt by proclamation certain towns aud districts from the operation of the proposed amendment.

5. It is my belief that the proposed alteration in the law will be of real advantage to the district, and that it may afford many additional facilities for the purchase of Crown lands, without the delay and disappointment at present, in many instances, justly complained of; but I am not in a position just at this time, without further consideration and information, to indicate with satisfaction to myself the precise character of the arrangement under which the provisions of the Act thus altered may be made applicable to the Port Phillip district. It is clear to me that some modification of that which may be judged applicable to the state of things in the Middle district will be found necessary. The proposal to effect all sales in the Police district in which the lands are situated, for example, I consider could not be carried into effect with advantage to the public interest, seeing the almost total want of suitable machinery for the proper conduct and management of such sales in the interior of the district. Perhaps his Excellency will concur with me in the opinion, that the consideration of these details may be as well deferred until the expected separation of Port Phillip from the older province of the colony, (which may probably take place before any such proposed alteration of the law, if conceded, can be acted upon,) shall have thrown the whole weight upon the local Government.

I have, &c.,

(Signed) C. J. Latrobe.

NEW SOUTH WALES.

No. 1.

Despatches from the Right Hon. Earl Grey, Secretary of State.

(No. 24.) No. 1.

EXTRACT of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY, dated Downing-street, February 11, 1848.

"I AM anxious, in the next place, to call your attention to the following passage, which occurs towards the conclusion of the Chief Protector's Report. Speaking of the aboriginal population in the district of Port Phillip, he observes that 'another subject deeply affecting the future condition of the aborigines is the probability that unless suitable reserves are immediately formed for their benefit, every acre of their native soil will shortly be so leased out and occupied as to leave them, in a legal view, no place for the soles of their feet. If the occupation of Crown lands is to be settled by the Crown granting leases for years, the natives will be deprived of all legal right to hunt over their own native lands, and, according to the dicta of certain high legal authorities, may be forcibly excluded by the lessee from the tract of country so leased.'

"I am not certain that I rightly understand the meaning of this suggestion for the formation 'of suitable reserves' for the benefit of the natives. Among the plans which have been tried in different parts of the world for the protection of natives in the middle of an advancing population of European settlers, one has been that of setting apart large tracts of land as remote as possible from the districts in actual occupation by those settlers, on which the natives might maintain themselves according to that mode of life to which they are addicted, without interference on the part of the colonists or of their government. But I think it has been generally agreed that this system is inapplicable to the circumstances of Australia. The necessity under which proprietors of flocks are placed of extending their occupation of land, such as it is, over wide tracts of country in a manner altogether different from the slow process of agricultural settlement. The barren and inhospitable character of large tracts of the Australian soil; the migratory habits of the scanty tribes in search of sustenance which the earth very sparingly affords them; all seem to render the establishment of native reserves of land on a large scale of very doubtful utility, even if practicable. If, therefore, I am to understand in this manner the meaning of the Chief Protector, it appears to me, that without further inquiry and better evidence than is at present before me, I could not authorize or recommend the adoption of such measures on an extensive scale.

"But the very difficulty of thus locating the aboriginal tribes absolutely apart from the settlers, renders it the more incumbent on Government to prevent them from being altogether excluded from the land under pastoral occupation. I think it essential that it should be generally understood that leases granted for this purpose give the grantees only an exclusive right of pasturage for their cattle, and of cultivating such land as they may require within the large limits thus assigned to them; but that these leases are not intended to deprive the natives of their former right to hunt over these districts, or to wander over them in search of subsistence in the manner to which they have been heretofore accustomed, from the spontaneous produce of the soil, except over lands actually cultivated, or fenced in for that purpose.

"This is a subject to which I wish you to turn your attention.

"The evil of occasional depredations or acts of violence between settlers and natives in these outlying districts, is one which it is vain to expect can be wholly prevented. But a distinct understanding of the extent of their mutual rights is one step at least towards the maintenance of order and mutual forbearance between the parties. If, therefore, the limitation which I have mentioned above on the right of exclusive occupation granted by Crown leases is not, in your opinion, fully recognized in the colony, I think it is advisable you should enforce it by some public declaration, or, if necessary, by passing a declaratory enactment.

"There is, however, another system of reserves of land for the benefit of natives, namely, that of setting apart small tracts of land, vested in trustees, specially appointed not for their maintenance in their savage condition, but to be cultivated either by them or for their advantage, by sale of produce, or for their own con-

sumption; affording also sites of schools, and whatever other fixed establishment experience may recommend as most calculated to serve them.

"I should have thought that the Chief Protector's observations were intended to apply to this class of reserves, had I not believed that this system, which he appears to speak of as a desideratum, was already in operation in your colony. I find by reference to former reports of Protectors of Aborigines, no fewer than seven reserves of this description mentioned as in existence five or six years ago, generally extending over a square mile each, at Lodden, Goulburn, Melbourne, and Geelong in particular. And from other quarters I had been lately apprised that some of these at least were in operation, that flocks were maintained also for the use of the natives, and some land cultivated for their benefit; but these are points on which the last reports, to which I am now adverting, afford very little information. I can, therefore, only say that, as far as experience vouches, this plan of setting apart comparatively small portions of land to be used in the manner I have above described, under the eye of the Protector, is perhaps the most successful of the experiments which have hitherto been tried, in the execution of the difficult but necessary duty which the existence of these tribes within our limits throws upon us. In South Australia it has been applied in combination with another measure, that of rendering these reserves central depôts for the distribution of rations among natives at the season in which they cannot, without much privation and extensive wandering, procure sustenance for themselves; and upon the whole the success attained in the management of the natives in South Australia has been greater than in any other colony similarly circumstanced. If the same expedient of distributing rations has not been hitherto adopted as the reserves in New South Wales (as from former accounts I imagined it had been), it is very desirable that it should be attempted.

"Understood in this manner, I think it is highly important that immediate attention should be paid to the suggestion of the Chief Protector, which I have above cited. Reserves should be established where they do not exist, particularly in districts recently brought within the range of occupation; and those already set apart for this purpose should be turned to account with all speed, if they are not so at present. And you will understand that, although the directions which I give on this subject are necessarily general, I am not the less anxious to impress them on your attention. It would be impossible to go more minutely into particulars without more knowledge of existing details than I at present possess; but that both yourself and the Secretary of State may be kept instructed of the condition of the natives, and the progress of these experiments, it is necessary that the reports of the Protectors should, in every instance, contain some summary, however brief, of the state of things at each reserve and station under their inspection.

"They should not think that they are not called upon to make any statement, where no particular change has taken place; but should exhibit periodically, and as nearly in a tabular form as the nature of the subject will allow, the actual use made of the land, the resort to it by the natives, the amount of rations (if any) distributed among them, and any other particulars which admit of such recapitulation.

"Among other practical methods of attempting to introduce improvement among the natives to which these reserves might be rendered subservient, one in particular deserves attention, namely, the formation of schools, both for adults and young people, but especially the latter, who are more open to receive and retain the impressions made upon them. These schools should be formed, as much as possible, on the principle of combining the arts of industry with the elements of ordinary and religious education. To the omission to instruct the natives in those arts I attribute, in a great degree, the general failure of the experiments in their education which have hitherto been made. Although some portion of each day should be devoted to the purpose of instruction, the scholars should also be trained, as early as possible, in mechanical employments and in those of agriculture. Such occupations and the advantage which they would be taught to appreciate from a knowledge of them, would constitute the chief inducement to remain, as they advance in life, in a state of civilization, and would tend to destroy that desire to return to a wild and roving life which has generally influenced those whose education has not partaken of an industrial character, and who have consequently had no bond in common with civilized society. The advantages of such a training are perceptible, to a remarkable degree, amongst the natives of New Zealand; and

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making every allowance for the difference of race, I still hope to see results which would more than justify the experiment in Australia. The expense attending any measures of that nature should constitute the very first charge upon the land revenue, a principle which Parliament has recognized in the Australian Land Sales Act."

No. 2. (No. 161.) No. 2.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, September 14, 1848.

WITH reference to my Despatch, No. 114,* of the 14th July last, I herewith transmit for your information and guidance the copy of an order passed by Her Majesty in Council, under date of the 11th August last, for including in the settled districts of New South Wales certain lands in the townships of Belfast and Warnambool; and I have to desire that you will take the necessary steps for the promulgation of Her Majesty's order in the colony under your government.

August 11, 1848.

See House of Commons' Paper No. 736, September 4, 1848.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. (Signed) GREY.

No. 3. (No. 217.) No. 3.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, December 12, 1848.

I HAVE the honour to acknowledge your Despatch, No. 84,† of the 3rd of April last, accompanied by certain rules which, in conjunction with the Executive Council you had framed, under the powers conferred by Her Majesty's Order in Council of the 9th of March, 1847, for regulating the occupation of lands for pastoral purposes within the settled districts.

This is a subject on which I should at any rate feel that I must be chiefly guided by the advice of the most competent local authorities. But I cannot refrain from adding that the rules appear to me to have been framed with great judgment, and with a very careful consideration of the various circumstances affecting this difficult question, and that I have the more satisfaction, therefore, in saying that they entirely meet my approval.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. (Signed) GREY.

No. 4. (No. 40.) No. 4.

EXTRACT of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY, dated Downing-street, March 12, 1849.

Page 4. "I HAVE to acknowledge your Despatch, No. 169 of the 29th July last, on the subject of the claim set up by certain owners of land for which quit rents are due or have been paid to the Crown, for a remission of the arrears, or a refunding of the sums paid by them to the extent to which they consider themselves entitled under the regulations issued from this Office in 1824.

2. I have already observed in my recent Despatch of January 12th‡ last, that the Crown, in respect of these quit rents, is simply to be considered in the light of a trustee for the whole community of New South Wales, and that every deduction from the arrears to which the Crown is entitled to in that capacity is so much withdrawn from a fund which is, and can be only applied to purposes directly advancing the prosperity of the colony. It is, therefore, necessary that claims of this kind should be admitted only where strict justice demands it.

3. Nor can there be the slightest real hardship in the Crown insisting upon

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* Page 133 of "Papers relative to the Occupation of Crown Lands in New South Wales," August, 1848.

† Page 120 of Papers relative to "Occupation of Crown Lands, New South Wales." Presented to both Houses of Parliament by Command, August, 1848.

‡ Page 4, Parliamentary paper, House of Commons, No. 343, 1849. Quit Rents.

its rights. For it is plain that the framer of the regulations in question did not foresee the actual state of things which would arise in the colony, and that the colonial authorities, better informed on the subject, never treated this particular rule as valid. The assignments of convicts, in respect of whose maintenance the deduction of quit rent was to be allowed, were, in reality, boons of the utmost value to the settlers, and eagerly sought after, without any regard to the remission in question. The claim, therefore, it is now advanced is that these parties should be reimbursed for supposed losses by the operation of a rule which, instead of entailing loss upon them, was, in truth, a very advantageous concession. Under these circumstances, however unwilling you may be to resist the application of numerous and respectable claimants, you feel that a due regard to the rights of the public at large deriving benefit from the revenue which those applications would seriously affect, renders it impossible that any favour can be shown them.

4. Still the faith of the Crown must be kept towards those parties to whom it can be shown it was distinctly pledged, even though the bargain itself was an improvident and mistaken one. I think, therefore, that the rule proposed for adoption in your Executive Council rests on sound principles, namely, that in all cases where arrears of quit rent are called for, the proper deduction for the maintenance of convicts should be allowed 'if the party can satisfy Government that he was made acquainted with the regulations in question before his emigration, and, in fact, that he emigrated on the faith of the conditions which they contained.' Such a rule as this would appear, for instance, entirely to exclude such claims as that of Mr. Lawson, who not only did not emigrate on the faith of these regulations, since he purchased the land from the original grantee, but who certainly could not have been misled by them in any way, since he paid his arrears of quit rent without claiming any such deduction, and only now presses a claim for repayment. I think also that the Council, guarding as it does, the interests of the community, is the fittest judge of the class of evidence which it will think proper to receive from a claimant in proof of his case, both in respect of dates and other circumstances.

5. But I am also of opinion, that in addition to this rule, it is necessary to impose on such claimants the burden of showing that they have, on their side, strictly fulfilled the other conditions of the bargain of which they claim the benefit.

6. This is particularly to be observed in respect of the rate at which the quit rent is to be redeemed. By the English regulations (to which the claimants now appeal) the quit rent was made redeemable at twenty times its amount. Subsequent concessions on the part of Government have diminished the sum to be paid for redemption; but these concessions were obviously made without any reference at all to the claim now raised. It had been urged, I believe, by no one in New South Wales, and certainly had not been brought to the notice of Her Majesty's Government. But it is obvious that the claimants cannot with justice at once ask for the benefit of the concession, and rely on the regulations. Before, therefore, they can be considered entitled to any abatement for the maintenance of convicts, they must be called on to redeem their quit rent at twenty times the amount, and the abatement ought to be calculated on this sum. They must also be charged with the full amount of quit rent to which they may have been liable upon the whole of the land they may have held in the colony, together with interest on any arrears which may have been allowed to accumulate.

7. Again, by clause 17 of the English Regulations of 1825, it is provided, that every grantee without purchase must, at the expiration of the first seven years, prove to the satisfaction of the Surveyor-General that he has expended in the cultivation and improvement of his land a capital equal to half its value, as that value was estimated at the time of his grant. On failure of such proof the land to be forfeited to the Crown. All such claimants as now rely on these regulations should, therefore, be required to give such proof, if they have not yet done so; if they decline this their claim for deduction for the maintenance of assigned convicts, resting as it does on the ground of the same regulations, ought not to be admitted.

8. By clause 14 of the same regulations, the quit rent is not redeemable at all after the expiration of 25 years from the date of the grant. This condition should be equally enforced against the claimants in question.

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No. 5.

(No. 48.) No. 5.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, April 7, 1849.

My attention* has been attracted by statements which show me that persons desirous of purchasing land in particular districts in New South Wales have lately experienced much delay in obtaining it, and in fact, that the demand has in certain situations largely exceeded the supply of land which was surveyed and ready for sale.

Without undertaking to judge to what extent these representations may be correct, they suggest to me the propriety of pointing out to you that I consider it highly desirable that the greatest possible facilities should be afforded to persons desiring to purchase land in the colony, for obtaining it without delay. With that view, I consider it important that the surveys should always be kept in advance of the demand in the districts where land is likely to be purchased, and that more land than there is a prospect of selling should be offered at the periodical sales; that which has once been put up to auction, and not bought, being afterwards purchaseable by the first applicant, without being again put up to auction. It would further be desirable that in each district of the colony where land is at all in demand, there should be an office constantly open, where land, of which the value has been tested by being put up to auction, may always be obtainable without trouble or delay by persons desirous of purchasing it.

An observance of these rules would conduce to the convenience of the settlers, and tend to the improvement of the land revenue.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

No. 6.

(No. 59.) No. 6.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, May 4, 1849.

Page 11.

I have to acknowledge the receipt of your Despatch, No. 244, of the 16th November, 1848, accompanied by a letter from Mr. George Hobler, an unlicensed occupier of Crown lands in the Lower Darling district of New South Wales, covering a petition to the Queen from himself and certain other persons similarly situated, who pray that Her Majesty will be graciously pleased to place them on the same footing with respect to their right, under the existing Land Regulations, to demand leases of the lands they have hitherto occupied without licenses, as if they had actually been in possession of licenses for the same.

You will acquaint the Memorialists that I have laid their petition before the Queen, but that I was unable to advise Her Majesty to comply with its prayer.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

No. 7.

(No. 70.) No. 7.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, May 20, 1849.

Page 16.

I have received your Despatch of the 5th of December, 1848, No. 261, in which, adverting to the fact that the monopoly of coal originally given to the Australian Agricultural Company no longer exists, and with a view of affording the utmost possible encouragement to the raising of coal in New South Wales, you request authority to declare that in all deeds in which for

* See Governor FitzRoy's Despatch on this subject, No. 43, March 13, 1850, page 70.

the protection of the Company's privileges, a reservation of coal has been inserted, the same should be annulled without charge, and I have in reply to convey to you my authority for effecting this change.

I have, &c.

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

(No 81.) No. 8. No. 8.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, May 29, 1849.

I HAVE received your Despatch, No. 251, of the 24th of November last, transmitting a petition addressed to the Queen by certain inhabitants of the district of Yass, praying for "an early reduction in the price of land to a fixed rate of 5*s.* an acre," and that "quantities of land sufficient for the demand may be at once surveyed and made available for purchase." Page 14.

2. You will acquaint the petitioners that I have laid the petition before the Queen, who was pleased to receive it very graciously. I regret, however, that I was unable to advise Her Majesty to comply with the prayer of the petition.

3. I have so fully, in my Despatch, No. 137,* of the 11th of August, 1848, explained the reasons which rendered it impossible for me to agree in the opinion that the minimum price of Crown lands ought to be reduced, that I abstain from entering into a renewed discussion of the subject on the present occasion; and, with regard to the expediency of keeping on hand a sufficient supply of land which should be surveyed and ready for purchase, you are aware, from my recent Despatch, No. 48, of the 7th April last, that I agree with the petitioners in the advantage of effecting that object. Page 80.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

(No. 96.) No. 9. No. 9.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, June 16, 1849.

I HAVE to acknowledge the receipt of your Despatch, No. 283, of the 29th December last, forwarding a Memorial to the Queen from certain inhabitants of the district of Bathurst, who pray that the Regulations published in New South Wales in March 1848, respecting the occupation of Crown lands within the settled districts, may be cancelled. Page 17.

You will acquaint the petitioners that I have laid their Memorial before Her Majesty, but that I felt myself unable to advise Her Majesty to accede to their request. You will add that I am by no means insensible to the expediency of offering every due accommodation to persons of the middling classes who may desire to purchase land, but that, for the reasons which are so clearly explained in the Colonial Secretary's letter of the 25th November last, I am of opinion that the proper facilities are given under the existing system.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

(No. 97.) No. 10. No. 10.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, June 16, 1849.

AMONG the 23 Acts transmitted to me for Her Majesty's allowance, with your Despatch No. 179, of the 12th August last, is one entitled, "An Act to

* Page 133 of "Papers relative to the Occupation of Crown Lands in New South Wales," August, 1848.

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remove Doubts concerning the Validity of certain Grants of Land in the City of Sydney (11 Vic., No. 54)."

On looking into this Act, it appeared to me that a serious doubt might arise as to its validity, and one which Her Majesty's confirmation could not remove. The grants of these allotments by Sir Ralph Darling, were grants of Crown land: and, according to your Despatch, it is questioned whether such of these grants as do not recite certain existing leases are good. But, if there is any foundation for this objection, the allotments would revert to the Crown at the expiration of the leases. Consequently it appears at least, extremely doubtful whether any enactment of the Local Legislature to confirm these titles would not be a violation of the provision of the Constitutional Act, that no law of the Legislature of New South Wales shall interfere in any manner with the sale or other appropriation of the lands belonging to the Crown.

Considering, therefore, that this doubt existed, and that, as I have before stated, the simple confirmation of Her Majesty would not remove it, and consequently, that these titles would remain insecure, it appeared to me that the best course to take was, to confirm the grants in question by Act of Parliament. The Bill introduced for this purpose has now been passed into a law (12 Vic., c. 24), and I transmit it with this Despatch.

See Imperial Act, 12 & 13 Vict., c. 22, "An Act to remove doubts concerning the validity of certain grants in New South Wales."

You will observe that it merely repeats the language of the Local Act, confining all grants made between the date of Sir Ralph Darlings proclamation and the 17th June, 1848, being the date of the Local Act.

The latter Act is therefore, as I apprehend, now of no importance, and probably the most convenient course will be to disallow it, which I shall accordingly advise Her Majesty to do, unless I receive any suggestion from you to the contrary before the period for disallowance expires.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c.

(Signed) GREY.

No. 11.

(No. 100.)

No. 11.

EXTRACT of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY, dated Downing-street, June 20, 1849.

"I HAVE received your Despatch No. 1,* of the 1st January, 1849, reporting circumstances under which you had created the office of Chief Commissioner of Crown Lands in New South Wales, and notifying the appointment of Lieut.-Colonel Barney to that office, with a salary of 600*l.* a year.

* Page 20.

"It appears to me that you have fully justified the necessity of the appointment, and I approve of the amount of salary which you have assigned to the office, to be paid from the Land Fund, and of the selection of Colonel Barney to the Chief Commissioner."

No. 12.

(No. 109.)

No. 12.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY,

SIR, Downing-street, July 6, 1849.

IN answer to your Despatch and its enclosures No. 37,* of the 26th February last, I have to signify my approval of your having, in accordance with your previous instructions, proclaimed the 31 new counties, which appeared to yourself and Council ready and fit to be constituted.

* Page 44.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c.

(Signed) GREY.

No. 13.

(No. 130.)

No. 13.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, July 31, 1849.

I HAVE received your Despatch and its enclosures No. 11,* of the 1st February last, notifying the appointment of Messrs. Bidwell, O'Connel, and

* Page 40.

Durbin, to be Commissioners of Crown Lands, to a corresponding number of new districts which you have found it advisable to establish in the colony under your government.

I approve of the appointments, at a salary in each instance of 365*l.* per annum, and chargeable on the land revenue.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

(No. 134.) No. 14.

COPY of a DESPATCH from Earl Grey to Governor Sir C. A. FITZROY. No. 14.

SIR, Downing-street, August 6, 1849.

I HAVE to acknowledge your Despatches of the number and dates mentioned in the margin, with their enclosures, both on the subject of certain proposed amendments in the Order of Council of the 9th of March, 1847, and I have to transmit you an Order in Council which I have advised Her Majesty to make, with a view to remedy the deficiencies to which your Despatches respectively relate. But as the subject of the first Despatch is one of considerable importance, and appears to present greater difficulties than were at first anticipated, it is necessary that I should explain my views upon it with some detail.

No. 221, October 11, 1848. * Page 8. No. 256, November 30, 1848. * Page 15.

Page 85.

2. Comparing the terms of the Act 9th and 10th Vict., cap. 104, sections 1 and 6, with those of the Order in Council of 9th March, 1847, there can, I apprehend, be little doubt that the intention of Government was, as I pointed out in my Despatch of the 11th February last, to give only the exclusive right of pasturage in the runs, not the exclusive occupation of the land as against natives using it for the ordinary purposes; nor was it meant that the public should be prevented from the exercise in those lands of such rights as it is important for the general welfare to preserve, and which can be exercised without interference with the substantial enjoyment by the lessee of that which his lease was really intended to convey.

3. But I fully appreciate the difficulties which the form of the present Order in Council opposes to the practical execution of that intention, according to the view taken by your legal advisers. They appear to be of opinion that no such conditions as would be requisite for the purpose could be introduced into leases granted under the Act, without a fresh Order in Council; and you accordingly advise the necessary Order being obtained.

4. I may assume that, at the date of your Despatch, no leases under this Act and Order in Council had, as yet, been granted. But you do not distinctly state whether it was your intention to suspend the granting of leases until you should receive further directions from me, or whether you should grant leases without the condition in question, and wait for a new Order in Council to convey you additional powers, or to declare the real extent and meaning of the leases. I am thus placed in considerable uncertainty as to your intentions, and it has not been easy to frame an Order in Council which shall be found applicable to the various contingent circumstances which may exist when it reaches the colony.

5. I will, however, for the present purpose, assume that by that time you will have already granted some leases. On this supposition there will be three different classes of cases which must be dealt with, viz.:—1. That of parties who already have leases when the present Order reaches you. 2. That of parties who at that time have not leases, but who, under cap. 2, section 11 of the Order in Council of March 9th, have either demanded, or become entitled to demand, leases of their respective runs. 3. That of parties who neither have leases, nor are entitled to demand them, but may, in future, make application for them.

6. The third case is easily dealt with. The Order in Council now transmitted will enable you to insert in all future leases such conditions as to you may seem requisite "for securing the peaceable and effectual occupation of the lands comprised in such leases, and for preventing the abuses and inconveniences incident thereto;" words amply sufficient to enable you to prevent the injury to the public which would result from the absolute exclusion of natives or other persons travelling or searching for minerals, and so forth. The same

NEW SOUTH WALES.

conditions will, of course, be inserted in new leases to be granted on the expiration of such subsisting ones, as you may have made under the Order in Council of 9th March, 1847.

7. But the first case, that of existing leases under that Order in Council, granted, as I have assumed, before the present Despatch reaches you, cannot be dealt with in the same way. Without asserting that the Queen could not, by Order in Council under the Act, empower you to enforce limitations of this nature without the consent of the lessee, in existing leases, I should, at all events, hold that such a power, if it exists, ought not to be exercised without the clearest necessity. The value of such leases might be materially diminished by the apprehension that the Government might, at its will, vary them in important particulars.

8. In point of strict law, it appears to me that the Order in Council of March 9th, already enables you to enforce those or similar limitations against the holders of existing leases without the insertion of any new conditions at all. Nothing in any lease which you may grant under that Order can prevent you (under c. 2, s. 9) from reserving out of the runs, such lands as may be required for the use of aboriginal inhabitants. This would strictly enable you not only to reserve spots which the natives used for their own purposes, as, for instance, in the case described in Mr. Mayne's letter of the 1st June 1848, but also so much land as might be requisite to give them access to such spots. Again, although it is thought that you cannot, under the existing Order, so interfere with the exclusive occupation of the lessee as to provide that private persons may enter to search for minerals, yet you are yourself empowered, under c. 2, s. 1, to "enter" upon any of the lands comprised in such leases for any purpose of public defence, safety, improvement, convenience, utility, or enjoyment; words which would protect the entry of persons deputed and authorized by yourself.

9. It seems, therefore, that the control which you enjoy under the Order of the 9th March, over land actually leased, is sufficient to enable you to prevent any practical evil arising, if lessees are disposed to insist on an unreasonable construction of their right of occupation. At the same time I need scarcely remind you that it would be necessary to be very cautious in the exercise of such control. These are powers placed in your hands only to be used against the will of the lessee when great and obvious public loss or inconvenience would result from abstaining from their employment. In case, however, the same object can, in any instance, be effected by arrangement, you are empowered, by the Order in Council now forwarded, to insert in existing leases such conditions as have been already mentioned with regard to future leases, by way of indorsement. But this is a power not to be exercised without the concurrence of the lessee.

10. There remains the case of parties, who, when this order reaches you, will not be in the actual possession of leases, but will be entitled to them under chap. 2, sec. 11, of the Order of 9th of March, 1847, "under" (in the words of the Order) "the present Regulations." I think this language renders it impossible to subject those parties to having inserted in their leases the new condition authorized by the present Order in Council. It appears to me, therefore, that persons having this right are to be considered in this respect as on the same footing with those to whom you may actually have granted leases. But, inasmuch as the Order of 9th of March leaves the length of the term of years to be granted entirely at your discretion, you will be able, and justly entitled, to refuse to such persons any lease for more than a year, unless they are willing to accede to the insertion of the conditions which you may require. I do not, however, wish to give you absolute directions how to treat them, as I do not know how such directions might interfere with terms or arrangements which you may have entered into before the present Despatch reaches you.

11. The clauses declaring pastoral leases transferable, are added in consequence of your second Despatch, hereby answered, and do not require any explanatory observations from me.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c.

(Signed) GREY.

Enclosure in No. 14.

Encl. in No. 14.

At the Court at Osborne House, Isle of Wight, July 18, 1849.

Present:—

The Queen's Most Excellent Majesty in Council.

Whereas by an Act passed in the Session of Parliament holden in the 9th and 10th years of the Reign of Her present Majesty, intituled "An Act to amend an Act for Regulating the Sale of the Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the Management thereof." After reciting that it might be expedient that various rules and regulations should be made respecting certain matters therein specified, and, among the rest, respecting the more effectually making demises or licenses of such waste land as aforesaid, and respecting the insertion in such demises or licenses of such conditions and clauses of forfeiture as therein mentioned, and respecting any other matters which might be requisite either for carrying into more complete effect the occupation of such waste lands, or for preventing the abuses incident thereto, it was enacted that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet for the purpose so specified, or for any of them, and any such rules and regulations again to repeat, renew, alter and amend, and that all such Orders in Council should have the force and effect of law in the said Australian Colonies.

And whereas by an Order in Council, made on the 9th day of March, in the year of our Lord 1847, in pursuance of the powers given by the said Act, it was ordered that it should be lawful for the Governor or officer, for the time being, administering the government of the colony of New South Wales, to grant leases of land for pastoral purposes (hereinafter described as pastoral leases) in such manner and subject to such restrictions as are therein described.

And whereas it is expedient that all such pastoral leases should contain such conditions, clauses of forfeiture, exceptions, and reservations, as may be necessary for securing the peaceful and effectual occupation of the lands comprised in such leases, and for preventing the abuses and inconveniences incident thereto:

It is hereby ordered by the Queen's Most Excellent Majesty, by and with the advice of Her Privy Council, that it shall be lawful for the Governor for the time being, or for the Officer for the time being administering the government of the aforesaid colony, to insert in any pastoral lease hereafter to be made, such conditions and clauses of forfeiture, exceptions, or reservations as to him shall seem requisite for the purposes last aforesaid; and that any condition, clause of forfeiture, exception, or reservation which may be endorsed on any pastoral lease after the execution thereof, and signed by the lessee, his executor, administrator, or assign, and by the Governor or Officer administering the government of the said colony, shall be as effectual to all intents and purposes as if it had been inserted in the body of such lease, in pursuance of the power given by this order.

Provided always that no such condition or clause of forfeiture, exception, or reservation, shall entitle any person other than the holder of such lease to use the lands comprised therein, for the purpose of pasture or cultivation.

And it is further ordered that all pastoral leases shall be transferable under such conditions and in such manner and form as shall be determined by the Governor or Officer, for the time being, administering the government of the colony.

And it is further ordered that this Order in Council shall be of no effect until it shall have been proclaimed in the colony of New South Wales by the Governor or Officer administering the government thereof.

And the Right Honourable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) Wm. L. Bathurst.

(No. 187.) No. 15. No. 15.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, Nov. 28, 1849.

I received your Despatch, No. 40,* of the 1st of March last, containing a general report on the indications of minerals at present exhibited in New South Wales, and suggesting the expediency of instituting a mineralogical and geological survey of the whole colony, in order fully to develope its mineralogical resources. * Page 56.

Having obtained the concurrence of the Lords Commissioners of the Treasury in defraying the charge consequent on such an undertaking from the Land Revenue, I immediately communicated with Sir H. De la Beche, with a view of obtaining the services of some person well qualified for that service.

I transmit, for your information and guidance, copies of the correspondence with Sir H. De la Beche on that subject, from which you will perceive the

Mr. Hawes, July 13, 1849.
Sir H. De la Beche,
July 14, 1849.
Sir H. De la Beche,

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October 12.
Mr. Hawes, October 23.
Sir H. De la Beche,
November 7.
Mr. Hawes, November 24.

conditions under which Mr. Bristow has been engaged for the survey; and you will further be informed of the circumstances under which his departure has been delayed until the month of May next.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. (Signed) GREY.

Enclosure 1 in No. 15.

Encl. 1 in No. 15.

SIR, Downing-street, July 13, 1849.

No. 40, March 1, 1849.

I AM directed by Earl Grey to transmit to you the enclosed copy of a Despatch from the Governor of New South Wales, reporting on the mineral indications in that colony, and recommending that a well-qualified person should be sent over for the purpose of examining the mineral resources of the country.

Before adopting a decision on this proposal, Lord Grey would be glad to be informed whether it would be in your power to recommend a competent person for that service, and on what terms you suppose that his services might be procured.

I have, &c.,

Sir H. De la Beche. (Signed) B. HAWES.

Encl.2 in No. 15.

Enclosure 2 in No. 15.

GEOLOGICAL SURVEY OF THE UNITED KINGDOM.

SIR, Baslow, Derbyshire, July 14, 1849.

WITH reference to your communication of the 13th instant.* accompanied by a Despatch from the Governor of New South Wales, in which his Excellency brings under the notice of Earl Grey the expediency of a geological survey of that colony, for the purpose of determining its mineral resources, I am enabled to state in reply to the desire expressed by Earl Grey, whether it would be in my power to recommend a competent person for the survey proposed, and the terms on which I suppose his services might be procured.

That we have now upon the geological survey of the United Kingdom, Mr. Beete Jukes, Master of Arts, Cambridge, a highly-qualified person, who has visited Australia, when acting as naturalist and geologist on board H.M.S. Fly, when engaged in the Admiralty survey of Torres Straits, and who has published a valuable work respecting that voyage, in which the different parts of Australia visited are noticed.

How far Mr. Beete Jukes might feel disposed to undertake a geological survey of Australia, I am not aware; but should Earl Grey desire it, I would communicate with him on the subject. There are also other parties who might be recommended, should such an office not suit Mr. Beete Jukes.

With respect to the remuneration of a competent person for this service, and unless one who was really so were engaged, it would not appear desirable to commence the work; I should suppose that a salary of about 600*l.* or 700*l.* per annum, would be looked for.

On this subject I would venture to suggest, for the consideration of Earl Grey, seeing the advantages which might arise by some kind of connexion between the British Geological Survey and the Museum of Practical Geology (in Jermyn-street), now about to come into full action; more particularly as illustrating the mineral wealth of the British Islands and the colonies, with colonial geological and mineral surveys; if some union of action might not be established, by which the general public service might receive benefit, should his Lordship deem it expedient that a geological survey of New South Wales should be undertaken.

I have, &c.,

B. Hawes, Esq., M.P., &c. &c. (Signed) H. F. DE LA BECHE.

Encl. 3 in No. 15.

Enclosure 3 in No. 15.

SIR, Craig's Court, October 12, 1849.

HAVING, in consequence of the receipt of the letter from the Colonial Office, dated the 4th September, on the subject of the appointment of a competent person for a geological and mineralogical survey of New South Wales, and in which authority was given, by direction of Earl Grey, to offer the appointment to Mr. Beete Jukes, at a salary of 600*l.* per annum, so offered it to that gentleman, and Mr. Beete Jukes having declined the appointment,

I have the honour to state, for the consideration of Earl Grey, that in consequence of the authority his Lordship was pleased to grant in the letter above mentioned—that I should offer it to some other person, should Mr. Beete Jukes decline the service—the appointment has been offered to Mr. Henry William Bristow, who is now attached to the Geological Survey of the United Kingdom, and who is willing to accept it on the terms proposed, namely, 600*l.* per annum salary, if an allowance be made for the cost of travelling in the discharge of his duties.

Mr. Bristow had distinguished himself at King's College, London, and had studied mining in Cornwall, prior to joining the Geological Survey, into which he was admitted in consequence of an excellent character, and his acquirements; and it is but justice to him to state that since

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he has been on that service, now seven years, he has always conducted himself, and discharged the duties intrusted to him, in the most satisfactory manner.

Having consulted with Captain P. P. King, R.N., &c. of New South Wales, who is in this country for a short time, and who is so well able to form a correct opinion of the wants of a person engaged in the survey proposed, it would appear that the cost for travelling on this service would be about 171*l.* per annum, as shown by the accompanying memorandum, prepared at my request, by Captain King.

Without regard to the outlay for a tilted cart and two horses, about 200*l.* per annum would appear needed to cover the cost of travelling, and other charges, not estimated in Captain King's memorandum, on account of the Geological Survey itself.

Should Earl Grey deem it expedient to sanction the addition of an allowance for travelling, as above estimated, and approve of the appointment of Mr. Bristow, there is every reason to anticipate that he would, from his geological, mineralogical, and mining knowledge, carry on a geological and mineralogical survey of New South Wales, with credit to himself, and to the advantage of the service contemplated.

I have, &c.,

Benjamin Hawes, Esq., M.P., &c. &c.

(Signed) H. T. De la Beche.

Sub-Enclosure in Enclosure 3 to No. 15.

Sub-Encl. in Encl. 3 to No. 15.

Copy of a Memorandum, by Captain P. P. King, R.N., &c., respecting the Outlay for Travelling, with a Tilted Cart and One Horse, with a Saddle Horse, and Expense of Keep of the Horses, in New South Wales.

Outlay.

	£.	*s.*	*d.*
Cost of a Tilted Cart	24	0	0
„ Two Horses	36	0	0
„ Harness for Car	2	10	0
„ Saddle and Bridle	5	10	0
	£68	0	0

Annual Expense.

	£.	*s.*	*d.*
Stable-keep of two horses for one year	104	0	0
Keep of two horses, while travelling, for one year	223	0	0
Keep of two horses, estimated at half the year stabled, half the year travelling	163	10	0
Shoes for two horses, one year	4	16	0
Farriery and sundries	2	14	0
	£171	0	0

Enclosure 4 in No. 15.

Encl. 4 in No. 15.

Sir, Downing-street, October 23, 1849.

I have laid before Earl Grey your letter of the 12th instant, in which you recommend Mr. H. W. Bristow, for the purpose of executing the Geological and Mineralogical Survey in New South Wales.

2. With regard to the extra allowances to which you refer, Lord Grey directs me to observe, that having regard to the general scale of such allowances, his Lordship would be prepared to authorise the Governor to grant Mr. Bristow a forage allowance for two horses, if it should appear that they were required by him, and a ration or an equivalent allowance while in the field; but that Lord Grey cannot sanction any further personal allowance to Mr. Bristow, and that he must leave it to the local authorities to consider whether any other incidental charges may be necessary to be provided for by the Government, in carrying out the objects of the survey, a question which it will be for them to decide, with reference to the generally established practice on such occasions.

3. If Mr. Bristow should be prepared to proceed to New South Wales on that understanding, Lord Grey will have great pleasure in acting upon your recommendation of him.

I have, &c.,

Sir H. T. De la Beche. (Signed) B. Hawes.

Enclosure 5 in No. 15.

Encl. 5 in No. 15.

Sir, Geological Survey Office, November 7, 1849.

Having, in consequence of your letter of the 23rd October, communicated with Mr. H. W. Bristow, forwarding him a copy of that letter, I am enabled to state that he is perfectly willing to proceed to New South Wales, in accordance with the regulations deemed expedient

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by Earl Grey, and feels very grateful to his Lordship for his intention to appoint him to the Geological and Mineralogical Survey of Country.

As the services of Mr. Bristow would be most important to the Geological Survey of the United Kingdom for a few months more, he being engaged on work which no one, at present, could finish in a satisfactory manner except himself, I would earnestly suggest for the consideration of Earl Grey, that Mr. Bristow may be permitted to remain on our survey until May next.

I have, &c.,

Benjamin Hawes, Esq., M.P., &c. &c.

H. T. De la Beche.

Encl. 6 in No. 15.

Enclosure 6 in No. 15.

Sir, Downing-street, November 24, 1849.

* Page 87.

I have laid before Earl Grey your letter of the 7th instant,* and I am directed to acquaint you in reply, that, although it is very desirable that no avoidable delay should be incurred in entering upon the projected Mineralogical and Geological Survey of New South Wales, yet, as Mr. Bristow would, if he were to make immediate preparations for his departure from this country naturally arrive in the colony at that period of the year least favourable for the commencement of such an undertaking, and as it appears to be of importance to the Geological Survey of the United Kingdom that Mr. Bristow should continue in his present employment until the month of May next, Lord Grey will not withhold his assent to that arrangement.

Lord Grey would, however, much regret if Mr. Bristow's departure should be delayed beyond that period.

I have, &c.,

Sir H. T. De la Beche, &c. &c.

(Signed) B. Hawes.

No. 16.

(No. 56.)

No. 16.

Extract of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy, Downing-street, May 4, 1850.

Sir H. De la Beche, April 16, 1850.

Mr. Hawes, April 23, 1850.

Sir H. De la Beche, April 26, 1850.

Mr. Hawes, May 4, 1850.

"With reference to my Despatch, No. 187, of the 2nd November last, I herewith transmit, for your information and guidance, copies of a correspondence which has passed with Sir H. De la Beche, from which you will see that Mr. Bristow, who was appointed to superintend the Mineralogical and Geological Survey of New South Wales, has recently declined the office, and that, on the recommendation of Sir H. De la Beche, Mr. S. Stutchbury has been engaged in his stead. This gentleman will, it is to be hoped, arrive at his destination within the time allowed to Mr. Bristow, so as to prevent any delay or inconvenience resulting to the colony from the change of person."

Encl. 1 in No. 16.

Enclosure 1 in No. 16.

Geological Survey Office, Jermyn-street,

Sir, April 16, 1850.

I have the honour herewith to transmit, for the information of Earl Grey, the accompanying communication which I have received from Mr. Bristow, who had been appointed to proceed on a geological and mineralogical survey of New South Wales. The reason assigned by Mr. Bristow for his inability to proceed to Australia, is, I am aware, correct, family adjustments making it a duty for him to remain in England.

Should Earl Grey, under these circumstances, deem it expedient that I should again endeavour to find some properly qualified person to recommend to him for this service, I will endeavour to do so to the best of my ability.

I have, &c.,

Benjamin Hawes, Esq., M.P., &c. &c. &c.

(Signed) H. De la Beche.

Encl. 2 in No. 16.

Enclosure 2 in No. 16.

Sir, Downing-street, April 23, 1850.

I am directed by Earl Grey to acknowledge the receipt of your letter of the 16th instant, stating that Mr. Bristow, who had been appointed to superintend the Mineralogical and Geological Survey of New South Wales, has now declined to accept the office. In reply, I am to acquaint you, that Lord Grey would be glad if you should be enabled to secure the services of some other properly qualified person; but as so long a time has

elapsed since the Governor of the colony expressed his anxiety on this subject, I am to add, that it will be indispensable that any one selected for the duty should enage to start without delay.

I have, &c.,

Sir H. De la Beche, C.B. (Signed) B. Hawes.

Enclosure 3 in No. 16.

Encl. 3 in No. 16.

Extract of a Letter from Sir H. De la Beche to B. Hawes, Esq., dated Geological Survey Office, Jermyn-street, April 26, 1850.

"With reference to your communication of the 23rd instant, acquainting me that Earl Grey was desirous that I should secure the services of a properly qualified person for the Mineralogical and Geological Survey of New South Wales, in the place of Mr. Bristow, who feels compelled by domestic reasons, to remain in this country, I have the honour to recommend to Earl Grey, as highly qualified for the service, Mr. Samuel Stutchbury, Fellow of the Geological Society of London, and member of various other learned societies, now, and for many years past, the able curator of the Bristol Scientific Institution, and with whom I have been personally acquainted for many years. Mr. Stutchbury is well instructed in our mode of work on the geological survey of Great Britain, has had great experience as a coal viewer, and is perfectly acquainted, not only with mineralogy as a science, but also practically with the mode of occurrence of the ores of the useful metals.

"Upon consultation with Mr. Stutchbury, I find that he would be prepared to proceed to New South Wales, as Earl Grey proposes, without delay, should his Lordship deem it expedient to appoint him to the service, a short time only being allowed him to arrange his affairs."

Enclosure 4 in No. 16.

Encl. 4 in No. 16.

Extract of a Letter from B. Hawes, Esq., to Sir H. De la Beche, dated Downing-street, May 4, 1850.

"In answer to your letter of the 26th instant, I am directed by Earl Grey to acquaint you, that his Lordship has much pleasure in accepting the recommendation which it contains of Mr. S. Stutchbury to superintend the Mineralogical and Geological Survey of New South Wales, in the place of Mr. Bristow."

(No. 93.) No. 17.

No. 17.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, July 6, 1850.

I have received your Despatch, No. 253,* of the 18th of December last, in which you recommend that an Act of Parliament should be passed for the purpose of reducing the quit-rents due by leaseholders in Paramatta, and other townships, and for enabling the leaseholders to acquire the fee simple of their lands upon certain conditions which you and the Executive Council consider to be inconsistent with the Land Sales Act. The position of the case appears, as I understand it, to be as follows :—

* Page 61

Certain lands in the township of Paramatta were leased by the Crown for terms of 21 years, dating from 1st July, 1823, during which period the lessees were entitled at any time to obtain a grant in fee on payment of a fine equal to 21 years' rent.

Many persons availed themselves of this privilege, and obtained their lands in fee simple accordingly.

Those who had not done so applied in May, 1844, when their leases were about to expire, to be allowed possession of their lands for an additional four years, with a privilege in regard to obtaining a grant in fee, analogous to that which they formerly enjoyed. If they failed within this extended period to pay up their arrears, with the additional sum necessary to acquire the fee, the land was to revert to the Crown.

If these lands had fallen within the scope of the Land Sales' Act, this arrangement could not legally have been made. Sir George Gipps, however, considered himself authorized in assenting to it, on the ground, I presume, (which appears to me a valid ground), that the lands, as having been "granted for a term of years," before the passing of the Act, did not fall within the definition of "waste lands" contained in the 23rd section. The arrangement accord-

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ingly took effect. But in July, 1847, the lessees petitioned the local government that they might be allowed the advantage of the quit-rent regulations issued by you in the previous year, which were far more favourable than the terms conceded to them by Sir George Gipps.

To this request, you and the Executive Council declined to accede, considering that the rents reserved upon these terminable leases, which were then on the point of expiring, did not at all stand on the same footing as quit-rents due from persons who had received grants in fee from the Crown, and that the terms from which the lessees sought to be relieved, had been proposed three years previously by themselves.

In September, 1849, more than a year after the period allowed by Sir G. Gipps had expired, and therefore, as I apprehend, after the lessees had ceased to have any legal interest in their land, another memorial was addressed by them to you, praying generally for relief. In support of this prayer, they stated (as I understood the memorial), that while the value of the land had been calculated for the purpose of imposing a quit-rent at 140*l.* an acre, land had been recently sold in Parramatta as low as 25*l.* an acre (which is the minimum upset price), and consequently that the ground-rent, contrary to the intentions of Government, had become equal to, or more than the actual value of the land. And they added that the non settlement of this question, would be a material obstacle to improvements in Parramatta. On this petition, the Executive Council recommended:—First, that the yearly amount of rent should be reduced to 4*d.* a perch (which is the rate of quit-rent, fixed by the regulations of 1829 for Parramatta, and other towns at the head of navigable rivers). Next, that lessees, like the payers of quit-rents, should be allowed to obtain their land, either on paying by yearly instalments a sum which, with the rents already paid up, would be equal to 20 years' rent, or on making an immediate payment of a very much reduced amount; and thirdly, that these concessions should extend to "Liverpool, Newcastle, and any other towns in which allotments are held on the same terms as those in Parramatta." They expressly recommend, however, that in no case should the Governor be required (as he may be in the case of quit-rents) to refund any money already received.

You observe that your own knowledge enables you to corroborate the statement of the petitioners as to the great depreciation of landed property in Parramatta and Liverpool, and to report that the leaseholders who petitioned Sir George Gipps in 1844, have found it impracticable to fulfil the terms then proposed by themselves.

On these grounds you concur in the recommendation of the Executive Council, and suggest that, as those recommendations could not be carried into effect consistently with the Land Sales' Act, they should be authorized by a fresh Act of Parliament.

The practical effect of such a concession would, I apprehend, be, 1st. That persons who have already paid rent to the Crown to the extent of 6*s.* 8*d.* per perch, or 53*l.* 6*s.* 8*d.* an acre, would at once be entitled to receive a grant of this land.

2ndly. That persons who have paid rent to half the above amount, would be required either to make up that sum by yearly instalments at the rate of 4*d.* a perch, or 2*l.* 13*s.* 4*d.* an acre, or else to make an immediate payment in commutation at the rate of 17*l.* 15*s.* 6*d.* an acre.

3rdly. That persons who have never paid any rent at all to the Crown during the whole period of their lease, would obtain a grant of their land by paying, in 20 yearly instalments, a price calculated at the above rate of 53*l.* 6*s.* 8*d.* per acre, or by an immediate payment of 26*l.*, being, as I have already observed, a little more than the Government upset price of town land in Parramatta. And the general result of the concessions proposed by the Executive Council, unless I misapprehend their scope, would be,—1st. To enable the lessees to purchase the land originally leased to them at something near the upset price. 2ndly. To remit all arrears due; and 3rdly. To allow all rents already paid to be counted as paid in part purchase of the land.

It is also to be observed that the occupants to whom these concessions are proposed are persons who, by making certain well understood payments, might have acquired an absolute interest in their lands; but who, having neglected to do do so for 25 years, have no longer any legal interest whatever in those lands, and many of whom would seem to be also considerably in arrear with regard to their rents.

This appears to me to be the actual position of the case. I do not consider that an Act of Parliament is necessary to effect the arrangements which you propose, inasmuch as the land to be dealt with does not appear to fall within the definition of waste lands, for the purpose of the Land Sales' Act. And I shall presently explain that the question is one of which I deem it fit to leave the ultimate decision to the discretion of the local government. But at the same time, I think it right to put you in possession of the remarks which have occurred to me on this subject.

I cannot but think that great objection would exist to any arrangement, by which those who have failed to fulfil their engagements, would be placed in a better position than those who had duly liquidated their debts.

I am therefore of opinion, that in justice to the inhabitants of the colony at large, it would be far better that no remission should be made of the claims of the public upon any holders of those lands which would have such an effect; it would be better to assume, as the test of what might reasonably be paid by all, the amount which has been actually paid by some of these holders. Those who have actually paid the greatest amount should not be placed in a worse position than any one else. That greatest amount therefore, whatever it may be, should, in my opinion, be taken as the regulator. Every one should be required to make up his deficiencies to that amount, with interest, to be calculated from the times at which his arrears fell due. When this is paid, he should receive a clear title to his land. Thus equal justice would be done to all.

As it has been urged that the enforcement of those claims would be injurious to the towns in which the lands in question are situated, I should approve of the sums so recovered being laid out on public improvements on them, in order that it might be clearly understood, that it is only on public grounds that the claims would be desired to be enforced by Her Majesty's Government. With regard to the future, I should, on general considerations, much doubt the propriety of giving to the holders of such lands, the privilege of acquiring a right to them as freeholds not subject to rent; and I conceive that it would be far more for the interest of the towns, that perpetual leases should be granted at the rents to which they are now liable, and that the rents derived from them should be paid for public purposes to the district Councils as they are formed.

By an arrangement founded on this principle, I am convinced that the interests of the inhabitants of the towns generally, would be far better served than by making a concession to individuals, to which they have no just claim. The revenue derived from such rents might be applied by the local Councils to objects of great importance to the towns at which the revenue might be raised; such as the maintenance of a superior school or college, or of a public hospital, or to any of those purposes for which, in the absence of such a fund, it would be necessary to provide by levying a rate.

This is the arrangement which I am of opinion would be most conducive to the general good; but at the same time, as the question is one which strictly and intimately affects local interests, I will not refuse to sanction any other plan which, after full consideration with your Executive Council, you may think fit to adopt.

I have, &c.,

Governor Sir C. A FitzRoy, &c. &c. &c.

(Signed) GREY.

(No. 97.) No. 18.

No. 18.

Copy of a DESPATCH from Earl Grey to Governor Sir C. A. FitzRoy.

Sir, Downing-street, July 25, 1850.

1. I have to acknowledge your Despatch, No. 113,* of 3rd June, 1849, relating to the case of certain occupants of Crown lands who, in the opinion of yourself and your Executive Council, are entitled to compensation for improvements effected on their lands.

* Page 57.

2. By that Despatch it appears to be the opinion of your law advisers, that no part of the purchase money received by the Crown on the sale of the improved lands could be applied, as suggested by me, to the purpose of making

NEW SOUTH WALES.

such compensation; and on referring the case to the law officers of the Crown in this country, further questions have arisen respecting the proper mode of enabling you to do justice to these persons' claims.

June 19, 1850.

3. I hope that, without raising any fresh legal question, the enclosed Order in Council will enable you to effect this object. You will observe that, although it does not empower you to grant compensation for improvements to any occupant of Crown land, it authorizes you, first, to grant yearly leases in any part of the colony and for any purpose; and, next, to sell to the lessee any part of his holding at its unimproved value, not being, of course, less than the Government upset price. By exercising these powers in favour of the present claimants, you will be able to sell to them, at its unimproved value, any part of their land which they may wish to purchase, and thus to remove what I conceive to be their substantial grievance, viz., their liability to be either dispossessed of land on which they have effected their improvements, or obliged to buy it by auction at a price enhanced by their own expenditure.

4. You will observe that the legal effect of this Order in Council goes considerably beyond what is required by the present case. In fact, it furnishes you with the means of alienating, at the minimum upset price, any waste land of the Crown whatever within the colony of New South Wales. I have thought it best that you should be invested with this large power, in order that you might be legally competent to deal with cases which may hereafter arise, analogous either to those of the present claimaints, or possibly to that of the Parramatta leaseholders, on which I have expressed my opinion in a recent Despatch.* I need hardly point out, however, that it is only in such exceptional cases that such a power can properly be used; and it is my wish that you should not extend it beyond the present cases, except in pursuance of fixed regulations which, before they are published in the colony, should be transmitted to this country for the approval of the Secretary of State.

* Page 89.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c.

(Signed) GREY.

Encl. in No. 18.

Enclosure in No. 18.

At the Court at Buckingham Palace, the 19th June, 1850.

Present:—

The Queen's Most Excellent Majesty.
His Royal Highness Prince Albert.

Lord President.	Earl Grey.
Lord Privy Seal.	Lord John Russell.
Duke of Norfolk.	Viscount Palmerstone.
Lord Steward.	Sir John Hobhouse, Bart.
Lord Chamberlain.	Sir George Grey, Bart.
Marquess of Abercorn.	Mr. Chancellor of the Exchequer.

Whereas by an Act passed in the Session of Parliament held in the 9th and 10th years of Her present Majesty, intituled "An Act to amend an Act for regulating the Sale of Waste Land belonging to the Crown in the Australian Colonies, and to make further provision for the management thereof," after reciting that it was expedient that various rules and regulations should be made respecting the more effectually making demises or licenses for any term of years, not exceeding fourteen, of any such waste lands as were therein mentioned, and respecting any right of pre-emption which it might be proper to give to the holders of any such demise or license, it was enacted, that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty should seem meet for the purposes aforesaid.

And whereas in pursuance of the said Act of Parliament, certain rules and regulations have already been made; and it is expedient that further regulations should be made for the above purposes, with regard to the Colony of New South Wales: it is hereby ordered, by the Queen's Most Excellent Majesty, by and with the advice of Her Privy Council, that it shall be competent for the Governor for the time being of the said colony, or other officer for the time being administering the government of the said colony, to grant leases of land for periods not exceeding one year, for pastoral or other purposes, in any part of the said colony.

And it is further ordered, that it shall be competent for the said Governor or other officer aforesaid, to sell to the holder of any lease granted in virtue of this Order in Council, any part of the land comprised in any such lease for its fair value in an unimproved state, not being

less than the minimum upset price prescribed by the Government Regulations for the time being. NEW SOUTH WALES.

And the Right Honourable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

(Signed) WM. L. BATHURST.

(No. 114.) No. 19. No. 19.

COPY of a DESPATCH from Earl GREY to Governor Sir C. A. FITZROY.

SIR, Downing-street, August 14, 1850.

1. I HAVE to acknowledge your Despatch, No. 225,* of the 5th of November last, accompanied by an address from the Legislative Council requesting you to forward, for my consideration, the Report of a Select Committee of Council upon the Crown Lands.

2. I have not failed to give my best consideration, accordingly, to this document; and, in so doing, I have availed myself of the assistance of the Commissioners of Colonial Lands and Emigration, from whom I have received a very able Report upon the subject, which I now forward to you, and which I July 31, 1850. have to instruct you to lay before the Legislature for their information.

3. Upon the most important of the questions adverted to, viz., that of the minimum price of land, the Report of the Emigration Commissioners appears to me conclusively to demonstrate that the reduction of the upset price would not be attended with the advantages anticipated by the Committee; and I cannot but hope that the force of their reasoning, founded, as I must remark that it is, not upon mere speculations formed at a distance, but upon direct local evidence, will have much influence with the Legislature and with the public of New South Wales.

4. I may add that, unless the advantages to arise from the reduction of the upset price of land could have been very clearly established, it would have appeared to me very inexpedient to adopt it on account of the obvious tendency of such a step to diminish the confidence of purchasers. In offering the recommendation on which the Land Sales' Act was founded, the Committee of the House of Commons, in 1841, specially dwelt upon the importance of this consideration. They pointed out that, if the general upset price were liable to be reduced from time to time, the apprehension of such a change must deter purchasers from coming forward: and that the experiment of a comparatively high price on land could not be fairly tried unless with a perfect assurance that the measure would be steadily adhered to. For this reason it was provided that the price of land might indeed be raised by the Crown; but that it should not admit of being lowered except by the authority of Parliament. And if, after such an enactment, the price were now to be reduced on any but the strongest and clearest proof of the necessity of the measure, it would be impossible to feel any confidence in the permanence of any lower price which might be substituted. A general sense of uncertainty would be thrown over the value of land.

5. Having weighed the whole subject, Her Majesty's Government continue to be of opinion that it would be injurious to the true interest of the colony to take any steps with a view to alter the existing regulations as to the disposal of the lands of the Crown, believing that those regulations, while they prevent the permanent alienation of land until it is really wanted for settlement, present every necessary facility for its purchase when required for that purpose; and that, by the opportunities they afford for occupying the ground for pastoral objects, they make the best provision for its being usefully employed in the meantime, while still preserving a sufficient quantity of land at the disposal of the Crown to meet the growing demand for permanent appropriation.

I have, &c.,

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

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* Contained in Paper presented to both Houses of Parliament by Command of Her Majesty, June 1850.

NEW SOUTH WALES.

Enclosure in No. 19.

Encl. in No. 19.

Colonial Land and Emigration Office,
July 31, 1850.

SIR,

WE have to acknowledge your letter of the 15th ultimo, transmitting for our report the Copy of a Despatch from the Governor of New South Wales, enclosing a Report from the Select Committee of the Legislative Council on Crown Lands. Before proceeding to the discussion of this document, it will be convenient that we should briefly recapitulate the principal points of what has already passed on this subject.

2. In the Report of the Select Committee "On the Minimum Upset of the Price of Land in New South Wales," dated 27th September, 1847, it was pointed out that, coincidently with the raising of this minimum upset price first to 12*s.* and afterwards to 1*l.*, there had been a rapid fall in the quantity of land sold from 368,695 to 4,259 acres; and that, in 1846, the amount had not risen much above 7,000 acres. It was thence inferred that the high price had put an end to the practice of buying land; and thus, besides destroying the land revenue, had virtually transferred the absolute property of about 180,000,000 of acres of pasture land to those who at present occupy it under renewable leases or licences. And the Report dwelt at great length, and in very forcible language, on the manifestly mischievous character of these results.

3. In our Report of the 3rd August, 1848, we submitted to Lord Grey our reasons for thinking that the decrease in the land sales did not, in any material degree, arise from the enhanced price of land. We pointed out that the value of land for merely pastoral purposes was so trifling that it was very undesirable, and was not even recommended by the Select Committee that for those purposes it should be sold at all; and that large sales for agricultural purposes could not be expected in a colony where so much land (5,000,000 acres) was already in the hands of individuals, and so much more (180,000,000 acres) was occupied under circumstances which rendered sale undesirable. We further pointed out that the extraordinary decrease of land sales in 1843–44 was the inevitable result of the extraordinary extent to which speculation had been carried in the preceding years, and that there was no reason for doubting that they would revive (as indeed they were then steadily reviving) until they had adjusted themselves to the real and ascertained requirements of the colony.

4. The Report now forwarded is divided into four heads, respecting—

1st. The sale of land.
2nd. The temporary occupation of lands.
3rd. The present appropriation of the land fund.
4th. Claims of the Council to the Crown lands' revenue.

On each of these heads we shall treat in their order; and first of that which respects the sale of lands, and is, for the most part, an answer to our own Report above referred to.

5. Under this head the Committee controvert our statement that the cessation of land sales is attributable to past speculations. They argue that it could not have arisen from the exhaustion of the colonists' means, since those means have been replenished without reviving the sales of land, nor from the fact that 5,000,000 acres of land have already been alienated, since of that area a very inconsiderable part only is available for cultivation. In support of the former statement, they exhibit a statistical table, intended to show "that the exports, corn, and population of New South Wales had doubled, while the land sales remain almost at the lowest point of depression. In support of the latter they argue that the impossibility of selling private land, which would seem to imply that too much is already in the market, does not really arise from that cause, but from the circumstance that, under the present Government regulations, occupation is preferred to any kind of purchase. Hence they conclude that the effect of the former speculations would have long ago passed away if it had not been perpetuated by the attempt of Government "to obtain somewhat more than an agricultural minimum price for pastoral lands." They explicitly deny "that Government are right in refusing, as they virtually do by the Land Sales' Act, to alienate land for pastoral purposes at all." They point out that there is much pastoral land which might properly be sold cheap, as it is in its very nature unfitted for cultivation; and they add that there is this peculiar advan-

tage in the sale of pastoral lands, that (if sold at the proposed price of 5*s.*) they would contribute more to the emigration fund in proportion to the labour which they absorb than agricultural land sold at the price of 1*l.* They urge that public opinion in New South Wales is unanimous against the latter price, which they allege to have been originally fixed with reference to the extravagant purchases of 1837, 1838, 1839, and 1840. On these grounds they propose that this minimum shall be reduced to 5*s.* an acre, which they think will be sufficient to prevent premature alienation of Crown lands, without arresting the settlement of the country, eradicating tenure in fee simple from the institutions of the colony, allowing casual occupation to ripen into permanent ownership,—and increasing dispersion and barbarism, instead of concentration and civilization,—consequences which they attribute to the present refusal of the Government to sell land at what may be called a pastoral price.

6. Our Report on the question now at issue is very much facilitated by the circumstance that that question has now reduced itself to a definite and practical issue. The Select Committee allege that pastoral lands can be, and therefore ought to be, sold at a mininum price of 5*s.* We have ourselves expressed the opinion that they would not prove saleable at anything like that price; and therefore, at present, ought not to be sold at all. In support of this view, we are fortunately able to adopt that mode of deciding the question at issue which is indicated by the Committee themselves. The colonists, they say, "are at issue with the Home Government, not on a question of political or economical science, but on the exchangeable value of a commodity, regulated by local circumstances, of which the most ordinary intelligence on the spot must of necessity be a better judge than the most enlightened statesman in Europe."

7. This appeal to the local intelligence of the colonists we most readily accept; and we accordingly beg to submit to Lord Grey a brief summary of the opinions of those gentlemen who were called upon to give evidence on this subject by the Select Committee of 1847, and of last year. Before these Committees, twenty-six witnesses in all were examined, and of these fifteen expressly, or by implication, gave their opinion as to the price at which land might be expected to sell for pastoral purposes. Their evidence was as follows.

8. The two witnesses whose opinions most nearly approach to those of the Committee, are two extensive landholders, Mr. Macarthur and Mr. Atkinson. Mr. Macarthur does not believe that persons would buy large blocks of land at 5*s.* an acre for grazing purposes, but only to complete their estates and for other considerations. He considers that in his neighbourhood there are but few sections which would sell at that price, because there is little good land left, and doubts whether the average would sell at 1*s.* Mr. Atkinson considers that large masses of land would be purchased at 2*s.* 6*d.* an acre; and that lands, not strictly agricultural, but, "from situation, doubly valuable" for pasture, and, in some degree, suitable for agriculture, might sell for 5*s.* The evidence of the remaining thirteen witnesses is generally of a much more unfavourable character. Mr. De Salis, a stockholder, considers that, under very favourable circumstances, (which he describes), a squatter might give 2*s.* 6*d.* an acre. Mr. Hovell considers that, as land recedes from the agricultural districts, the price should diminish from 5*s.* to 1*s.* an acre. Mr. Lyons, an auctioneer, says that no pastoral land would be purchased at 2*s.* an acre, and that the minimum price could not be above 1*s.* or 1*s.* 6*d.* Messrs. Ogilvie and Hodgson, both squatters, state that the price must be less than 1*s.* Mr. Mort, an auctioneer, puts it below 4*d.*, or rather argues, with Messrs. Leslie, Cornish, and Salting, all squatters, that land could scarcely be purchased at any price for pastoral purposes. Messrs. Dobie and Duggan, both squatters, and Mr. Bloxsome, the Manager of the British and Colonial Loan Company, go farther, and say that it does not even pay them to occupy it on the present terms. Finally, Mr. Fry, Crown Commissioner for the Clarence River District, when asked whether any land in the pastoral districts would sell at 5*s.* an acre, replies,—

(qq. 10, 11, 23.)

(qq 11, 12.)

(q. 12.)

(qq. 22-42.)

Mr. Ogilvie, q. 63.
Mr. Hodgson, q. 17. qq. 36—40.
Mr. Leslie, q. 7.
— Cornish, q. 4.
— Salting, q. 45,

Mr. Bloxsome, qq. 3—7.
— Dobie, q. 12.
— Duggan, q. 17.

(q. 54.)

"It is impossible to calculate upon the amount of folly that may exist in the community. Some might be sold, but I am sure it would not pay."

9. The result is, that of these fifteen witnesses, two, and two only, think that some land might, under peculiarly favourable circumstances, be purchased at 5*s.* an acre for grazing purposes. The rest, with one voice, say, or imply, that the idea of such sales is altogether visionary. And we may here add, that two witnesses, Messrs. Bloxsome and Leslie, imply that no prudent stockholders

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would buy any greater quantity of land at 5*s.* than at 1*l.*, on the very reasonable ground that it is worth his while to pay 1*l.* an acre for his homestead and cultivations, and that it is not worth his while to pay 5*s.* an acre for anything else. To this mass of evidence nothing whatever is opposed by the Committee but the unsupported allegation that "many of the witnesses examined before the late Committee, who had possessed themselves of large tracts of land, showed an anxiety to depreciate its value precisely in proportion to the eagerness they had before exhibited to possess themselves of it." Looking, however to the various callings of these gentlemen,—to the fact of their being selected by this and the former Committee as being (we presume) the persons most competent to give trustworthy evidence,—to the unanimity (it is not too much to say) with which that evidence is given on the present subject, and to the circumstance that the Committee have not produced a single witness to give a contrary evidence,—it is not, we think, too much to say that, on this point, the local experience to which the Committee appeal is clearly and decisively in favour of the view taken in this country, and against that maintained by the Committee. And we think ourselves justified in concluding that a reduction of the minimum price of land to 5*s.* an acre, would entirely fail to answer the purpose for which it is proposed by the Committee, that, viz., of enabling colonists to purchase land in fee simple for grazing purposes, and would only result in reducing the price of cultivable land to one-fourth of what it is at present.

10. And here perhaps we might quit this part of the subject; but as it appears to be assumed, on these or other grounds, that the proposed reduction would give such a stimulus to land sales as even to increase the present revenue, it seems proper to examine to what extent such a result is likely or desirable.

11. In the first place, we would refer to a statement from which the Committee conclude that the high price of land has destroyed the land sales, and which, in that view, they challenge us to contradict the statement, namely, that while "the exports, the imports, the corn, and population of New South Wales had doubled, the land sales had remained almost at their lowest point of depression." We think this statement, if unexplained, would lead to erroneous ideas of the facts of the case. It doubtless appears that the population, the exports, and the sales by auction in 1848, were double what they were in 1839, while the land sales in 1848 amounted to less than one-third of what was realized in 1839. A disproportion of the same kind has been pointed out by the Committee between the years 1834 and 1848, and between the years 1837 and 1846. But, on the other hand, it will be seen from the subjoined figures, which are almost entirely furnished by the Committees of 1847 and 1849, that the receipts from the sale of land in 1848 were three times as great as the receipts in 1842, four times as great as the receipts in 1843, and more than six times as great as those in 1844, while the average sold rose from 4,259A. 1R. 11P. in 1844, to 21,480A. in 1848.

Year.	Acres Sold.			Amount.
	A.	R.	P.	£.
1842	21,903	2	5	14,574
1843	4,817	2	30	11,297
1844	4,259	1	11	7,402
1845	7,267	2	18	18,451
1846	7,018	1	33½	27,060
1847	28,726	2	27*	62,801
1848	21,480	0	33½*	47,262

* These two amounts are taken from Returns in our own office.

12. It would, therefore, be easy to meet the statement of the Committee by the counterstatement, that, far from remaining at the "lowest point of depression," the land sales had advanced during the last six years with a rapidity unexampled in any other department of the public revenue. But the truth is, that either of these conflicting statements would be wholly delusive. The quantity of land sold in the earlier years here referred to was the result of ill-advised speculation. The rapid decline of the receipts was a reaction from that unnatural excitement, and the rapid increase is a recovery from unnatural depression. There appears to us, however, no ground for despondency in the present rate of sale. This rate, during 1847 and 1848, averaged about 25,000 acres per annum, in a population of about 200,000 persons, holding already

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(as we have before remarked) 5,000,000 acres in fee, and said to occupy 180,000,000 acres, for purposes which dispense with the necessity of purchase. And it is worth while pointing out that this revival of the land sales has taken place coincidently with an enormous diversion of capital and labour to grazing purposes, which has raised the Government receipts on account of pasture land from 6,345*l.* in 1839, to 47,478*l.* in 1848.

13. Premising, then, that we do not see any ground for dissatisfaction in the present amount of land sales, we proceed to consider the policy of attempting to stimulate those sales by a reduced price.

14. Now, in the first place, we fully admit, that if Crown land is to be sold at all, its price should be inconsiderable in comparison with the profits or other advantages derivable from its *bonâ fide* use. This is due to the working settler, whose labour contributes far more to the welfare of the colony than any accession to the revenue which could be extracted from him by means of a hard bargain. But we do not believe that the price of 1*l.* an acre is considerable in respect of the profits of such land as the Government desires to sell. This land may be divided into two classes—first, the strictly agricultural lands; secondly, the homestead cultivations and improvements of the squatter.

15. With regard to the former of these, we see it stated that the expense of clearing well-timbered land (which is usually the best) is about 8*l.* or 10*l.* an acre; that the annual produce of good land is 5*l.* or 6*l.* an acre; and that the wages of labourers are from 14*l.* to 18*l.* a-year, besides food and lodging. We cannot think that a sum, which is about one-eighth of the cost of prepared timber land for cultivation, one-fifth or one-sixth of its yearly produce, and considerably less than three weeks' wages of a labourer employed upon it, can be an exorbitant payment for the fee-simple. And if in any case it does not answer to purchase well-selected land in fee, this must surely be due not to the price of land, but to a much more important difficulty, the price of labour, which the land revenue is applied to remove.

Mr. Bloxsome, q. 2. — King, qq. 21, 34, 35. — Merewether, q. 40.

16. Still less, we think, can those who occupy pasture lands on the favourable terms now conceded by Government, complain of the present minimum price as an interference with their legitimate profits. Indeed, among the stockholders who gave evidence on this subject, one declared his opinion that a squatter might well buy 320 acres of land for this purpose in the course of an eight years' lease; and we have already quoted the opinions of other witnesses that squatters could and would buy as much land as they wanted at 1*l.* an acre. We feel no doubt, therefore, that the profits of pastoral pursuits are ordinarily such as to require no exception in this respect from the general rule of sale.

Mr. Hodgson, qq. 92, 93, 94. Mr. Bloxsome, qq. 24, 25, 26. Mr. Leslie, q. 21, 22.

17. It is said, indeed, by three witnesses that stockholding does not pay. These statements, however, besides being discredited by the Committee, appear fully answered by the statistics of New South Wales. In the year 1832, the population of New South Wales was 53,524; the exports of wool were valued at 73,539*l.*; and the aggregate exports of all other articles at 310,785*l.* In 1848, the population was 220,474; the exports of wool were valued at 1,240,144*l.*; and those of all other articles at 590,224*l.* It will thus be seen that while the population had about quadrupled, the exports, exclusive of wool, had not quite doubled, but the exports of wool had risen to about 17 times what they were in 1832; having, in fact, increased by no less than 1,166,585*l.* It may safely be assumed, that an employment of which the increase has so enormously outstripped every other branch of production, and that with as much steadiness as rapidity, has not failed to yield an ample profit to those concerned in it.

18. If, then, the present regulations do not interfere with the legitimate profits of land, we think it no disadvantage, but the contrary, that the price of land should be such as in some degree to discourage reckless or speculative purchases; and we are strongly of opinion that there is no wisdom whatever in inviting people by an apparently low price to buy what they have not the means of using, and therefore can only render it profitable, if at all, by means of a future resale. Whether the more immediate consequence of such factitious sales is that of ruining the speculator, or of transferring to him a profit more properly belonging to the public revenue, it appears to us equally injurious to the community at large; nor (which is the present question) do we believe that it would effect any real and permanent increase in the Land Fund. For

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it appears to us that a large sale of land, if it arise from any other cause than the increased use of land, does not constitue an augmentation, but only an anticipation of the revenue. Unless land is virtually given away, the amount alienated by the Crown will in the long run be limited by the real wants of the colony. An artificial stimulus would be invariably followed by an unnatural stagnation—a causeless stagnation by increased activity. When the amount of alienations has risen much above its natural level, the sale will be slack; when it has fallen much below that level, they will be brisk. But so long as the Government price is not either so low as to be merely nominal, or so high as to interfere with the profitable use of land, we believe that the average amount of sales during a course of years will be regulated by the substantial progress of the colony, and could not be pushed beyond their natural limits by the purchases of persons who bought land because they could get it cheap. But if the price of land were reduced by three-fourths, and the quantity sold were not largely and permanently increased, it is obvious that the land revenue, and consequently the immigration fund, would be largely diminished.

19. On the whole, we can discover in the facts before us no ground for thinking that the present minimum price of land inflicts any real injnry on the *bonâ fide* settler, whether farmer or stockholder. We think it clear that no reduction of price short of a virtual recurrence to free grants would lead to any large sales of land for pastoral purposes. We think it very doubtful whether any such reduction would materially increase the amount of land bought by squatters for purposes subsidiary to their own occupations; and though it might give an immediate stimulus to purely agricultural purchases, yet we believe that this would simply be an anticipation of future sales. It would follow that the proposed change would be a mere sacrifice of the greater portion of the proceeds of the land sales without any corresponding advantage. We need hardly add, that we should deeply regret the subtraction of so large a sum from the only fund now applicable to the introduction of labour, especially when we learn from the evidence of the Immigration Agent,* that by the recent expenditure of the land revenue, wages, which formerly ranged from 18*l.* to 28*l.*, have been reduced to 14*l.* or 18*l.*, but that an immediate rise would certainly follow from the discontinuance of emigration.

* Mr. Merewether, questions 40, 41.

20. We are unwilling to lengthen this report by controverting specific statements which have no direct bearing on the main question at issue. There is, however, one which we are forced to notice, because it involves something like a charge of unfairness against ourselves.

21. The Committee of 1847 stated that the Land Sales' Act was passed not with a view to the benefit of New South Wales, but of South Australia, and at the instance of the South Australian Commission, who, it is said, "felt that it would be impossible to obtain 1*l.* an acre for land there, while land of the same quality could be obtained at 5*s.* an acre here." On this we observed, that it was well known in this country that the South Australian Commission had nothing to do with the measure, and had, in fact, ceased to exist before it had passed. The Committee of 1849 admit the literal accuracy of our statement, but deny its substantial correctness. They observe that Colonel Torrens, the Chairman of the South Australian Commission, in a letter to the Secretary of State, dated 12th October, 1836, did urge the adoption of a high price (12*s.*) in New South Wales on grounds of fairness to South Australia, in which colony that price had been already imposed; and they conclude, that although not literally concerned in passing the Land Sales' Act, that gentleman did substantially originate the policy of raising the price of land in New South Wales.

22. We think, however, that our original statement will be seen to have been correct both in letter and in spirit. It will be remembered, that the policy of selling land in New South Wales was adopted in 1831; that from 5s. the price was raised in 1839 to 12*s.*, in 1841 to 1*l.*, and was finally fixed at that sum by an Act of Parliament; and it is well known that this course of policy was not only supported on general grounds by statesmen who were most conversant with colonial matters, but had been approved by two separate Committees of the House of Commons. We think, therefore, that even had we been aware of the existence of Colonel Torrens's letter (which we were not), we should have been justified in ascribing, not merely the Land Sales' Act, but the whole policy, of which it is a part, entirely to this concurrence of opinion, and not to arguments which appear to have been casually addressed to the Colonial Office

some years after the policy of selling land was adopted in New South Wales, some years before the price was raised from 5*s.* to 12*s.*, and the force of which is not alleged to have been admitted, and was not in fact admitted, by the Secretary of State.

23. The second head of the Report concerns the temporary occupation of Crown lands. The Committee observe, that the present land orders propose to confer on squatters the following advantages:—first, a fixed rate of annual fees; secondly, compensation for improvements; thirdly, a pre-emptive right at 1*l.* an acre; and fourthly, a lease for 8 or 14 years, as the case may be. The Committee consider that the right of pre-emption at 1*l.* an acre is worthless, and that the advantages of a lease, partly from the expense of making the necessary surveys, and partly from the probability of certain legal difficulties, will prove highly questionable. They propose, therefore, as an amendment, that the squatter should continue to occupy his lands on the present terms, with a fixed license fee, a right to compensation for improvements, and a right of pre-emption at 5s. an acre.

24. These proposals do not appear to call for much remark. We have already stated our opinion as to the effect of a reduction in the upset price so far as regards land used for pasture; and on the probable expense of the surveys, it would be premature to report without information from the executive authorities. The legal difficulties anticipated by the Committee, so far as they arise from the doubt whether pastoral leases are assignable, will have been, we hope, effectually obviated by an order in Council which has been passed on that subject.

25. The third head of the Report concerns the present appropriation of the land fund for purposes of immigration. The Committee consider that immigration should be continuous, even though this continuity could only be secured by reducing its rate. They recommend that all immigrants should be obliged to contribute towards the expense of their passage, remarking, however, that it might be judicious in the first instance to require but a small sum, and when the practice has been established, gradually to increase it. To check re-emigration from New South Wales, they recommend that notice should be given to all intending emigrants that they will be required to refund their passage-money before leaving the colony. They object to what has been called assisted emigration, *i. e.*, to the emigration of mechanics or tradesmen paying part of their passage-money. They complain that 10 Chartist witnesses and their families have been assisted to emigrate from colonial funds, and they deprecate any loan for purposes of emigration to be secured upon the general revenue.

26. We have already had occasion to report to Lord Grey on such of these points as fall within our province. In our letter of the 28th ultimo, we submitted our opinion respecting an increase of the deposits made by emigrants, and the proposal that they should refund their passage-money before leaving the colony to which they were sent. Arrangements for an increase of these deposits are in consequence to be made, and measures are to be adopted for enabling the Local Government, if it thinks fit, to claim repayment of the emigrants' passage-money, in case of their leaving the colony within a few years; although grave doubts may be entertained, and do appear to have been entertained, by the Legislature of New South Wales, whether the measure is one which it will be judicious to endeavour to enforce. We have long ceased to give assistance to mechanics emigrating to Sydney. On the case of the Chartist witnesses we had the honour to report in our letter of the 2nd of May, and since that time the full sum expended by the colony towards the emigration of these persons has been reimbursed to the colonial funds by the Home Office. Finally, the rate at which emigration should be resumed is, we believe, now under the consideration of Her Majesty's Government; but we cannot but point to the large advances heretofore made by the Imperial treasury, amounting occasionally to 100,000*l.* at one time, to enable us to continue emigration, as a sufficient evidence of the general concurrence of the Home Government in the importance of a continuous emigration, and of their anxiety that the interests of the colony should not suffer from a temporary suspension of the colonial remittances for emigration purposes.

27. The last subject to which the Committee refers is, the claim of the Local Legislature to the administration of the Crown lands' revenue. This

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question has so recently been brought under the notice of the Imperial Legislature, that it would be out of place to offer any observations on the subject, even if it were within our province to do so.

28. The concluding paragraph refers to a grievance connected with the subject of quit-rents, and bearing, it is said, with especial hardship on the towns of Liverpool and Parramatta. The alleged hardship, however, is indicated in general terms, and for the purpose, not of bringing it again under the consideration of the Secretary of State, but of strengthening the argument for abandoning the management of Crown lands to the Legislative Council. It does not, therefore, appear necessary to do more than remind Lord Grey, that an opportunity of commuting the Crown quit-rents on exceedingly liberal terms was given to the colonists by Sir C. A. FitzRoy's notice of 9th October, 1846. It is possible, however, that the Council refer to the case, not of persons charged with ordinary quit-rents, but of certain leaseholders at Parramatta, who prayed that they might have the advantage of the above regulations. On these claims we have nothing to add to the statement contained in our Report of the 25th of May* last. We believe that Lord Grey's opinion on the subject has already been signified to the Governor, and that the decision of the question will be left to the local authorities.

* See Despatch at page 89.

We have, &c.

Herman Merivale, Esq.,
&c. &c.

(Signed) T. W. C. Murdoch.
Frederick Rogers.

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PAPERS

RELATIVE TO

CROWN LANDS

IN THE

AUSTRALIAN COLONIES.

Part I.

NEW SOUTH WALES AND VICTORIA.

(*In continuation of Papers presented 14th August* 1850.)

Presented to both Houses of Parliament by Command of Her Majesty,
May 6, 1853.

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1853.

SCHEDULE.

Part I.

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VICTORIA.

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PAPERS

RELATIVE TO

CROWN LANDS IN THE AUSTRALIAN COLONIES.

NEW SOUTH WALES.

NEW SOUTH WALES.

No. 1.

No. 1.

COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY.

(No. 66.) Government House, Sydney, April 9, 1850.

(Received September 9, 1850.)

MY LORD, (Answered No. 168, November 9, 1850, page 69.)

REFERRING to your Lordship's Despatches of the 27th February and the 24th May 1848, Nos. 34 and 83*, I do myself the honour to forward herewith copies of minutes of my Executive Council and of the documents therein referred to, which will show the measures taken since the receipt of the above-mentioned Despatches in regard to the surveys requisite for the obtaining of sufficiently complete descriptions of the boundaries of runs to be leased under Her Majesty's Order in Council of the 9th March 1847.

Minutes of Executive Council.
15 August 1848.
17 October 1848.
18 January 1849.
12 March 1849.
2 June 1849.
23 June 1849.
6 August 1849.
28 August 1849.
15 October 1849.
4 December 1849.
28 December 1849.

2. From the remarks in the last two paragraphs of the Despatch of the 27th February 1848, I infer that your Lordship was under the impression that I contemplated a more accurate and detailed survey of the boundaries of runs than was requisite to define them with exactness sufficient for the immediate object in view, namely, the issue of leases claimed under Her Majesty's Order in Council of the 9th March 1847. I therefore think it necessary to explain, that the intention of myself and of my Executive Council has throughout been, not to obtain a needlessly accurate definition of the boundaries of the runs, but merely to procure a sufficiently clear description of them to satisfy the principle of law adverted to in my Despatch of the 6th December 1847†, No. 239, under which all conveyances from the Crown are held to be absolutely null and void if the property intended to be conveyed be not described by certainty.

3. What will constitute a sufficient certainty of description in the case of these leases is a question on which it is scarcely possible to give an abstract opinion; but I hope that the course which, on the advice of my Executive Council, I have adopted, and which is set forth in the notice of the 1st January 1850, will prevent any further surveys being undertaken than such as may be absolutely necessary to enable me to issue legally valid instruments.

Appendix 1 to Minutes of Council.

4. Your Lordship having signified in your Despatch of the 24th May 1848, No. 83, your approval of the manner in which I proposed to conduct the requisite surveys, the arrangements in progress have been adhered to without the adoption of Captain Dawson's suggestions, which are not considered by the Surveyor-General, with reference to local circumstances, to be likely to facilitate the work or lessen its expense. A copy of the Surveyor-General's Report on the subject will be found amongst the papers appended to the Minutes of Council. As, however, the Surveyor-General does not advert to this point, it may be proper to inform your Lordship that Captain Dawson's suppositions that runs are rectangular blocks, with two sides at least directed to the cardinal points of the compass, and that from the small proportion which their aggregate area bears to the extent of the colony they must be so scattered that numerous or serious cases of disputed boundary cannot for several years occur, are altogether inconsistent with the real facts of the case. On the contrary, there are few runs which are not conterminous with others, and the boundaries are in all cases irregular. The rules referred to by Captain Dawson are those which relate to the measurement of land for sale, and which, although they have recently been adopted to a certain extent in the regulations respecting the selection of new runs, have not been in any degree observed in the division of

Appendix A. to Council Minutes page 10.

* Pages 120 and 121 of Papers relative to the "Occupation of Crown Lands in New South Wales," presented to Parliament by Her Majesty's Command, 1848.

† Page 24, Ib.

NEW SOUTH WALES.

the pasture lands which were occupied under licence when the Order in Council of the 9th March 1847 came into effect.

5. In consequence of the instruction contained in your Lordship's Despatch of the 27th February 1848, above referred to, a notice was issued in the Government Gazette, in which it was declared that the claimants of leases would be required to pay for the surveys of the boundaries of their runs, and, on the recommendation of the Surveyor-General, the charge to be made on them was fixed at the uniform rate of 2*l.* per linear mile. Several petitions against this rate of charge were addressed to me, and in some of them the legal power of the Government to make such a charge at all was questioned, on the ground that by the Acts of Parliament 9 & 10 Vict. c. 104. sec. 2. and 5 and 6 Vict. c. 36. sec. 18. it was provided, that the cost of the surveys should be defrayed out of the rent given for the land. This point was submitted to the Crown law officers, who gave their opinion that the Government could not require those persons who had sent in sufficiently perfect descriptions for insertion in the leases to pay for surveys of the boundaries; but that in any case in which, through the imperfection of the description rendered by the claimant of the lease, a survey might be necessary, the expense of it would properly fall on him as the incoming tenant. Upon this opinion the notice of the 1st January 1850, above referred to, was framed by my Executive Council, on whose advice also the charge to be made for surveys, when required, was reduced to 10*s.* per linear mile.

Council Minute 13 March 1849.

Appendices to Council Minutes, marked F. 1. 2. 3. and G. 2. 3. 4.

Appendix H. to Council Minutes.

6. I have issued the instructions recommended in paragraph 4 of the Minute of Council of the 28th December 1849, under which the several Commissioners of Crown Lands, being furnished with the descriptions of the runs in their respective districts as supplied by the claimants of leases, will compare those descriptions with the boundaries pointed out to them on the ground, and take the requisite measures to render them sufficiently complete. The Commissioners will then proceed to estimate the extent and grazing capabilities of the several runs, in accordance with the provisions of section 3. of chapter 2. of Her Majesty's Order in Council of 9th March 1847.

7. Your Lordship will observe, from the papers now forwarded, that I submitted to the consideration of my Executive Council the expediency of allowing runs of large extent, of which leases had been claimed, to be subdivided and let in separate lots. The Council having recorded their opinion in favour of this measure, I issued a notice under which such runs can, on application, be subdivided into separate holdings, of sufficient area to maintain not less than 4,000 sheep, or their equivalent in cattle, under certain specified regulations respecting the boundary lines of the subdivisions and a fair partition of the water. The transfer of leases of runs being now legalised, this measure is calculated not only to benefit the lessees by rendering their property more marketable, but also to be advantageous to the public, as the effect of it will be to increase the number of resident proprietors throughout the country, and to prevent the continued occupancy of unduly large tracts of country by single individuals.

Minutes of Council, 18 January 1849.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. in No. 1.

Enclosure in No. 1.

NEW SOUTH WALES.

PROCEEDINGS of the EXECUTIVE COUNCIL relative to the measures requsite to obtain legally valid descriptions of the Boundaries of Runs for insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March, 1847.

Extract from Minute No. 48/27, *dated* 15*th August* 1848.

Members present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

27 February 1848, No. 34.

His Excellency the Governor lays before the Council a Despatch from Earl Grey with reference to the proceeding of the Council on the 15th June 1847, in which his Lordship gives general instructions respecting the surveys requisite for giving effect to Her Majesty's Order in Council of the 9th March 1847, and transmits a letter and report from Captain Dawson as to the manner in which the surveys could in his opinion be conducted,

Printed in Parliamentary papers relative to the occupation of Crown lands, New South Wales, presented to Parliament in 1848.

with comparatively little expense and delay, and at the same time with sufficient accuracy for the immediate object in view.

2. The Council advise that this Despatch, with all the Minutes of Council respecting the surveys in question, should be referred to the Surveyor-General, with a request that he will submit for the information of his Excellency such observations as to the applicability and efficiency of Captain Dawson's plan as his practical experience in the colony will enable him to afford. The Surveyor-General's attention should be particularly directed to the maxim of law which requires certainty of definition in conveyances from the Crown, and to the opinion of the Crown law officers that, in accordance with that maxim, the proposed leases of runs will be void if the boundaries be not so described as to admit of the certain identification of the actual portion of land intended to be conveyed, so that he may report whether the requisite accuracy can be attained by Captain Dawson's mode of survey. The Surveyor-General should at the same time be requested to propose any improvement which, after a full consideration of the documents above referred to, he may be able to suggest in the arrangement for the conduct of the surveys which was advised by the Council, as set forth in their Minutes of the 18th September and 6th and 28th October 1847, and which the Deputy Surveyor-General was directed to adopt by the instructions conveyed to him in the Colonial Secretary's letters of the 1st and 15th October and 17th November 1847.

Extract from Minute No. 48/39, *dated* 17*th October* 1848.

Members present:—

Same as Minute No. 48/27 above.

Appendix A.

With reference to the proceedings on the 15th August last, his Excellency the Governor lays before the Council a letter from the Surveyor-General reporting on the suggestions made by Captain Dawson in the letter enclosed in Earl Grey's Despatch of the 27th February 1848, No. 34.

2. In a later Despatch, dated the 24th May 1848, No. 83, Earl Grey has expressed his approval of the arrangements adopted by the local Government for the conduct of the surveys requisite to give effect to Her Majesty's Order in Council of the 9th March, 1847. The Surveyor-General has expressed to the Council his perfect satisfaction with those arrangements which were made during his absence from the colony; and from his Report now before the Council it appears that, after a full consideration of the suggestions made by Captain Dawson, he does not consider that any practical measures based thereon would be "likely to facilitate the progress or lessen the expense of the surveys now in hand." Under these circumstances, the Council have only to recommend that a copy of the Surveyor-General's letter should be forwarded to the Right Hon. the Secretary of State, with an intimation that the surveys will be prosecuted in the manner approved by his Lordship's Despatch of the 24th May 1848.

3. The expense of the surveys of the boundaries of runs must of course be defrayed by the holders thereof, in accordance with the express instructions to that effect which are contained in the Despatch now under consideration, and the Council advise that the doubts expressed by the Surveyor-General on this point should be removed by a distinct announcement that the local Government will require the claimants of leases under the Order in Council to pay the cost of obtaining the descriptions requisite for the issue of such leases.

Extract from Minute No. 49/5, *dated* 18*th January* 1849.

Members present:—

Same as Minute No. 48/27 above.

Appendix B.

With reference to the proceedings on the 17th October last, relative to Earl Grey's Despatch of the 27th February 1848, No. 34, and with reference also to the third paragraph of the notice which was issued under the Council's advice on the 1st January 1848, respecting transfers of runs, his Excellency the Governor lays before the Council a Minute in favour of the sub-division of runs to be leased under the 11th section of chapter 2. of the Order in Council, with a report from the Chief Commissioner of Crown lands and other papers relating to the subject.

2. After an attentive consideration of the matters brought under their notice by these documents, the Council advise that the following draft notice should be submitted to the Surveyor-General, with a request that he will report as to the increase of business which the subdivision of runs proposed to be authorized thereby will be likely to cause in his department, and as to the best means of providing for its effective performance; and that he will also submit the rates of charges to be made for surveys according to the nature of the country to be measured, so that they may be announced to the public.

Draft Notice.

His Excellency the Governor, with the advice of the Executive Council, directs it to be notified, that, in accordance with instructions to that effect received from the Right Hon. the Secretary of State, the expense of the surveys requisite in order to obtain

NEW SOUTH WALES.

descriptions of the boundaries of runs, for insertion in the leases thereof, which will be granted by the Governor, under the provisions of Her Majesty's Order in Council of the 9th March 1847, will be charged upon the applicants for the same, who will be required in each case to pay the amount into the Treasury previously to the execution and delivery of the lease.

(2.) The charges for the surveys of the boundaries of runs will be varied according to the description of the country measured, and will be as follows: viz.—

Open plains	per mile	or such other distinctive descriptions as may be suggested by the Surveyor-General.
Open forest land	„	
Light scrub	„	
Dense scrub	„	
Broken and mountainous country	„	

(3.) Persons whose claim to leases under the 11th section of chapter 2. of the Order in Council have been admitted will be allowed, previously to the issue of leases, to subdivide their runs into portions of not less extent than will be sufficient for the maintenance of 4,000 sheep, or their equivalent in cattle, and to obtain separate leases for the same, subject to the following conditions.

(4.) The measurement of the boundary lines shall be made under the direction of the officers of the survey department.

(5.) The Government will reserve to itself the right in every case of modifying the boundaries proposed for the subdivision of the runs, so far as may be necessary to render them conformable to the under-stated rules, and the persons employed in the survey and measurement thereof will be instructed to adjust and describe the boundaries accordingly: viz.—

(6.) Subject to such deviations as the general features of the country, the adoption of natural boundaries, and the position of the boundaries of the run to be divided, may require, every subdivision of a run must be in a compact block of rectangular form, in which the external line shall run east and west and north and south.

(7.) The subdivisions must be so made as to secure to each of the reduced runs a fair and adequate share of the water requisite for the beneficial use of the pasturage.

Extract from Minute No. 49/11, *dated* 13th March 1849.

Members present:—

The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

Appendix C., page 13.

With reference to the proceedings on the 18th January last, the Honourable the Commander of the Forces lays before the Council a letter from the Surveyor-General, reporting on the draft notice respecting the subdivision of runs and the charges for surveys, which had been submitted to him in accordance with the Council's recommendation.

Having considered this letter, the Council adopt the suggestion of the Surveyor-General, that a uniform rate of two pounds per mile of linear measurement should be substituted for the originally proposed scale of charges varying according to the nature of the country under survey. With this modification, the Council finally approve of the draft notice prepared by them on the 13th January last, and advise its issue.

The suggestion of the Surveyor-General, that the division of the territory into parishes may be facilitated by adopting the boundaries of runs as parish boundaries, appears to the Council to be of considerable value, and they recommend accordingly that it should be acted upon as far as may be practicable, it being of course understood that no additional expense will in any case be imposed upon the occupants of runs on this account.

Extract from Minute No. 49/23, *dated* 2d *June* 1849.

Members present:—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Colonial Treasurer.

With reference to the draft notice respecting the surveys and subdivision of runs which was approved by the Council on the 13th March last, his Excellency the Governor informs the Council that that notice had not yet been issued, because he desired further to consult the Council as to the expediency of inserting in it a provision that in no case will the survey of the boundaries of a run be commenced by the Government until the occupant shall have actually paid into the Treasury the amount with which he is to be chargeable on account thereof, under the scale fixed; so that the Government may be

relieved from the obligation which would otherwise be entailed upon it of advancing the cost of these surveys.

2. Having considered the subject thus brought under their notice by his Excellency, the Council advise that the following clauses should be added to the notice in question :—

(1.) A computation will be made of the expense of measuring the boundaries of each run according to the description furnished by the applicant, and the party entitled to claim the lease will be informed of the amount, with a view to the same being paid into the Treasury, which must be done before any order can be given for the survey. If the payment be delayed for more than three months after notice has been given of the amount, the party will be required to pay any additional expense to which the Government may in consequence be subjected.

(2.) Any person desirous of availing himself of this regulation must mak application to his Honour the Superintendent at Melbourne or the Chief Commissioner of Crown Lands in Sydney, describing in general terms the manner in which he wishes his run to be subdivided. On receiving such application, a computation will be made of the probable expense of measuring the boundaries of the several runs for which separate leases are desired, and the applicant will be required to pay the amount into the Colonial Treasury before the survey is ordered.

Extract from Minute No. 49/29, *dated* 23rd *June* 1849.

Members present :—

Same as Minute No. 48/27 above.

His Excellency the Governor lays before the Council a letter from the Surveyor-General, in reply to a reference made to him, at the instance of the Chief Commissioner of Crown Lands, of a letter from Mr. Lockhart, one of the recently appointed Commissioners for the settlement of disputed boundaries of runs, inquiring whether he will be at liberty to call in a private surveyor to assist him in the preparation of the descriptions of the boundaries fixed by him, which he is instructed to embody in his reports, "such surveyor " having been duly appointed by the Governor in that behalf". (11 Vict. No. 61-1.) Mr. Lockhart suggests that the employment of a private surveyor would save much inconvenience and delay, and in the event of its being sanctioned to recommend that Mr. Kiffin, a civil surveyor resident in the district, should be appointed for the purpose.

Appendix D., page 14.

2. Having duly considered the Surveyor-General's letter, the Council record their opinion on the several questions raised therein as follows :—

3. With reference to the Surveyor-General's suggestion, that embarrassment would arise if the disputed and the conterminous undisputed runs were not described by the same surveyor, the Council advise that the surveyor employed to describe the boundaries determined by the Commissioner should in every case measure and describe the entire boundaries of the runs, and not merely the portions of them in dispute.

4. The Council fully admit that the adjustment of the boundaries of runs according to lines directed to the cardinal points of the compass, wherever there are no well marked natural features, would be attended with great convenience. Such an arrangement, however, could not be carried out consistently with the provisions of section 2. of chapter 2. of the Order in Council, which give to every licensed occupant a right of claiming a lease of the land held by him when the order came into effect. Section 7. of chapter 2., referred to by the Surveyor-General in support of his view that a rectangular arrangement could be carried out consistently with the terms of the Order in Council, has reference only to the measurement of lands for sale.

5. In reference to the Surveyor-General's remark, that it would not be prudent for the Commissioners to settle the disputed boundaries until the arrangements for reserves are complete, the Council have to observe, that the boundaries fixed by the Commissioner's decision will of course be subject to any modifications which may be required for the formation of the reserves ; and that even after the issue of leases the Governor would have the power, under the ninth clause of chapter 2. of the Order in Council, of resuming any land which might be required for any of the purposes therein mentioned, of which a reserve would be one.

6. In any case in which it may be found convenient to employ the salaried officers of the Surveyor-General's department in the measurement of boundaries of runs which have been in dispute, the same charge will be made as if licensed surveyors were employed, and the amount will be placed to the credit of the land fund.

7. It was necessary, in order to give effect to the objects of the Act for the determination of disputes as to the boundaries of runs, that the employment of surveyors should be provided for to describe at once the lines fixed by Commissioner's decisions.

8. It was not, however, intended that these surveyors should act independently of the Surveyor-General. It was understood that they were to be under the Surveyor-General's direction and control, that their work was to be subjected to his supervision, and that the returns and surveys were to be sent to his office. The Council further express their opinion that the selection of all surveyors to be employed under the Act should be subject to the

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approval of the Surveyor-General, who will of course not recommend the appointment of any person of whose competency he has not satisfactory proof.

9. Under this decision it will be for the Surveyor-General to report whether he can recommend that Mr. Lockhart's application for the appointment of Mr. Kiffin should be acceded to by his Excellency.

Extract from Minute No. 49/37 *dated 6th August* 1849.

Members present :—

Same as Minute No. 48/27 above.

Appendix E., page 16.

With reference to the proceedings on the 23d June last, his Excellency the Governor lays before the Council a letter from the Surveyor-General, observing, with regard to the arrangement then advised by the Council, that it would be a far more simple and desirable course were the final report of the Commissioner and the plan and description to be furnished by the Surveyor confined to that part only of the boundary between runs which may be in dispute, and suggesting that unless it be understood that the wording of the Act of Council 11 Vict. No. 11. would warrant such a course, it would be expedient to have the Act so amended that the description to be inserted in the final report of the Commissioner should relate to the disputed part of the boundary merely, and not embrace the whole of the boundaries of the two runs, so as to serve for insertion in the leases.

2. The Council advise that the attention of the Surveyor-General should be directed to the terms of the instruction given to him under their Minute of the 23d June last, and that it should be pointed out to him that his present application is founded upon an erroneous impression, and that the course suggested by him is that which the Council intended to be pursued. In the instruction referred to there is no mention of the Commissioner's final report, nor is there anything in the nature of a proposition that the Commissioner should describe more in that report than he is by law required to do, namely the portion of boundary in dispute as settled by him. The Council, however, considered that it would be convenient, and they are of the same opinion still, that the surveyor employed to prepare the description required for the Commissioner's report should at the same time measure the entire boundaries of the run, so that he may furnish to the Surveyor-General a description of the whole for insertion in the lease. To the Commissioner he will only furnish a description of that portion which has formed the subject of adjudication.

3. As respects the Surveyor-General's remarks regarding the payment for these surveys, the Council recommend that it should be explained to him that the cost of the measurement of the disputed portions of the boundaries will be charged on the losing party, as provided by law, but that the cost of the measurement of the remainder will be charged upon the claimants of leases respectively, as in ordinary cases.

4. The Council further suggest, that it should be intimated to the Surveyor-General, with reference to the recent notice respecting the measurement and subdivision of runs, that in all cases in which the boundaries of runs belonging to different persons are con terminous the cost of the measurement will be divided between the two parties, and that one half of the stipulated rate per mile will accordingly be charged to each.

Extract from Minute No. 49/42, *dated 28th August* 1849.

Members present :—

Same as Minute No. 48/27 above.

Referring to the proceedings on the 6th August instant, his Excellency the Governor brings under the consideration of the Council an objection which had been raised to a portion of their Minute of that date respecting the descriptions to be furnished by the Commissioners for the settlement of disputed boundaries of runs in their reports.

2. On the 23d June last a letter from the Surveyor-General was laid before the Council, in which that officer pointed out the inconvenience which would in his opinion arise if the Surveyor employed to prepare the measured description of a disputed run for insertion in the Commissioner's report did not at the same time measure, mark, and describe the undisputed conterminous runs. The Council did not perceive how this incovenience would be obviated by the Surveyor-General's proposal, because it would recur in respect to the runs conterminous with those which were conterminous with the disputed runs, and so on in an indefinite series. The Council, however, recommend that the surveyor employed to describe the boundaries settled by the Commissioner's decision should also measure and describe in every case the entire boundaries of the run. Upon receiving this decision, the Surveyor-General expressed his opinion that the Commissioner should only describe in his report the portion of the boundary which was in dispute. The Council then recommended that it should be pointed out to the Surveyor-General that this was the intention of their former Minute, but that although the disputed boundary alone was to be described in the Commissioner's report, the entire boundaries of the run were to be measured by the same surveyor, and a complete description thereof to be prepared for insertion in the lease. To this recommendation it is objected that the Act of Council, from which the Commissioners derive their authority, requires that they should insert

in their reports in every case a complete description of the boundaries of the entire run, so that the Government may be enabled to issue a lease without requiring any further measurement.

3. The Council adopt the opinion, that the Commissioner is by law required to furnish in his report a complete description of the entire boundaries of the runs to which it has reference, so that leases of them may at once issue; and being also of opinion that this is the most expedient course, they cannot adopt the Surveyor-General's suggestion, that the Act should be so amended as to make it the duty of the Commissioner to describe that portion of the boundaries only which has formed the subject of his adjudication. The Council, therefore, advise that a communication to this effect should be made to the Surveyor-General, instead of that proposed in their former Minute with reference to this subject.

4. It is not required by law that the losing party, under the Commissioner's decision, should pay the whole expense of the survey for more than the portion of the boundary in dispute; and in this respect, therefore, the terms of their former Minute do not need alteration.

Extract from Minute No. 49/51, *dated 15th October* 1849.

Members present:—
Same as Minute No. 48/27 as above.

His Excellency the Governor lays before the Council the undermentioned documents:

(1.) A letter from Mr. James Garland, in reference to the notice of the 28th July last, respecting the survey of runs, questioning the consistency of that notice with the terms of Her Majesty's Order in Council, pointing out the difficulty and uselessness of a detailed survey of the boundaries in his own case, and representing the expediency of withdrawing the regulation in question as regards those to whom such a survey can be of no service, and of modifying it in other respects in such a manner as shall be more suitable to the exigencies of the times. Appendix F 1., page 17.

(2). A petition, signed by a number of licensed occupants of Crown lands beyond the settled districts, praying,— Appendix F. 2., page 18.

(I.) That the notice of the 28th July 1849, fixing an uniform average rate of two pounds per lineal mile as the price to be paid for the surveys of the boundaries of runs may be recalled.

(II.) That the surveys necessary to obtain descriptions of the boundaries of runs for which leases are to issue may be performed by contract by tender, the price of such contract not to exceed ten shillings per lineal mile.

(III.) That where runs are contiguous the expense of surveying the dividing lines may be borne equally by the claimants of the leases of the runs to which the lines are common.

(IV.) That so soon as such surveys shall have been completed, but not before, the party holding such run shall be called upon to pay into the Treasury the expense of such survey. In default of such payment within a reasonable time, summary measures may be adopted to recover the same. Provided always, that in the event of any one who has demanded a lease not wishing such lease to issue, it shall be in the power of such person to give notice thereof a reasonable time previous to the commencement of such survey, in which case all claims for a lease of such run on behalf of such person may be absolutely forfeited.

(3.) A letter from Major-General Stewart, forwarding a petition from certain settlers of New South Wales, representing that the charge fixed by the notice of the 28th July last for the surveys of the boundaries of runs is much higher than necessary, and praying that some less expensive means of surveying them may be adopted. Appendix F. 3., page 18.

(4.) A report of the Attorney and Solicitor-General, on cases submitted by Messrs. Dobie and Marsh, with a view to reduce the surveys requisite for the description of the boundaries of runs in the intended leases, in which those officers state that the written descriptions 1. and 2. and sketch No. 2., submitted by Messrs. Dobie and Marsh, would be insufficient for uncertainty, but that description 3. and sketch No. 1. would be sufficient. Appendix F 4., page 19.

2. The Council advise that all the papers above described should be referred to the Surveyor-General, with a request that he will take them under his immediate consideration, and that he will report his opinion as to the extent to which detailed surveys of the boundaries of runs may be dispensed with, in accordance with the view taken by the Crown law officers in their opinion on the description which they pronounce to be sufficient for the object in view; and that he will also state whether any, and, if any, what reduction can be made in the charge for the surveys which was notified on the 28th July last, having been fixed by this Council in accordance with the recommendation contained in the Surveyor-General's letter of the 22d February 1849.

Extract from Minute No. 49/58, *dated 4th December* 1849.

Members present:—
Same as Minute No. 48/27 above.

With reference to the proceedings on the 15th October last, his Excellency the Governor lays before the Council a letter from the Surveyor-General, expressing his opinion that detailed surveys of the boundaries of runs cannot be dispensed with; but that upon the Appendix G. 1., page 20.

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report of Mr. Surveyor Townshend on the flat country of the Murrumbidgee district, ten shillings per mile would be a sufficient remuneration, he sees no objection to a reduction of the charge fixed by the notice of the 28th July last to ten shillings per mile.

2. His Excellency also lays before the Council the under-mentioned documents relating to the subject of the Surveyor-General's report.

Appendix G. 2., page 21. (1.) A letter from the Superintendent of Port Phillip, transmitting memorials from licensed occupants of Crown lands in the Portland Bay district, and from other licensed occupants beyond the settled districts, in public meeting assembled, praying for a reconsideration of the charge fixed by the notice of the 28th July 1849, for the surveys of the boundaries of runs, in which letter his Honour expresses his own opinion that the charge is much too high, that 1*l.* instead of 2*l.* per mile would be amply sufficient to cover all expenses, and that it would be just to dispense with the Government survey in some cases in which correct surveys have been already made at the occupant's expense.

Appendix G. 3., page 26. (2.) A letter from the Superintendent of Port Phillip, submitting a petition from the settlers in the Murray district, representing that the charge of 2*l.* per mile for the measurement of the boundaries of runs is exorbitant and uncalled for, and requesting that the surveys may be conducted on the system followed in Van Diemen's Land, or that the charge may be reduced to ten shillings per mile.

Appendix G. 4., page 27. (3.) A memorial from licensed occupants of Crown lands in the Murrumbidgee district, representing the unjust and oppressive tendency of the notice of the 28th July 1849, which imposes upon them the payment of the charge for the measurement of their runs, in contravention of the provisions of the Statutes 9 and 10 Vict. chap. 104. sec. 2. and 5 and 6 Vict. chap. 36. sec. 18., and at a rate four times higher than that by which it could be performed by private contract.

3. Before recording any opinion on the questions raised in the documents before them, the Council desire to receive the opinion of the Crown law officers as to the objection made in Mr. Garland's letter to the Colonial Secretary and in the memorial last described to the charge of the cost of the surveys on the lessees, on the ground of its inconsistency with the provisions of the Acts of Parliament 9 and 10 Vict. chap. 104. sec. 2. and 5 and 6 Vict. chap. 36. sec. 18.

4. The Council accordingly advise that those papers should be submitted to the Attorney and Solicitor-General, with the following question, viz.: The applicants claim, under clause 2. of the Act of Parliament 9 and 10 Vict. chap. 104. and clause 18. of the Act 5 and 6 Vict. chap. 36. to have the boundaries of their runs measured at the public expense, and the cost thereof charged to the territorial revenue.

Is this claim supported by law?

Extract from Minute No. 49/63, *dated* 28*th December* 1849.

Members present:—

Same as Minute No. 48/27 above.

Appendix H., page 27. With reference to the proceedings on the 4th December instant, his Excellency the Governor lays before the Council the opinion of the Attorney and Solicitor General respecting the objection raised in Mr. Garland's letter and in the memorial referred to them to the payment demanded by the notice of the 28th July 1849 for the surveys of the boundaries of runs, on the ground of such a charge being inconsistent with the provisions of the Acts of Parliament 9 and 10 Vict. chap. 104. sec. 2. and 5 and 6 Vict. chap. 36. sec. 18.

2. From this opinion it appears that the Government cannot legally impose the charge of the survey necessary for the preparation of a technical description upon any person who, in accordance with the notice of the 7th October 1847, has furnished all the information required for his lease, by describing the boundaries of his run with accuracy enough to enable a competent surveyor to distinguish the particular land from any other, and to inform the Government of its estimated extent and grazing capability. But if the description furnished by the intended lessee is so imperfect as to render a survey necessary to enable the Government to issue a valid lease, the expense of the survey would legally and properly fall on the lessee.

3. Having attentively considered the representations made in the applications before them, in connexion with this opinion and with the report of the Surveyor-General as to the cost of the measurements, the Council advise that the appended notice should be issued, and that the several parties who have addressed the Government on the subject should be referred to that notice for the decision of the Government on the questions which have been raised.

Appendix I., page 29.

4. In order to give effect to this notice, the Council advise that each Commissioner of Crown lands beyond the settled districts should be supplied with copies of the descriptions of their runs which have been sent in by the several applicants for leases within his district; that he should be informed of the degree of certainty which the law requires to render those descriptions admissible in the leases; that he should be instructed, when called upon to perform the duty of ascertaining the extent and grazing capabilities of the runs, to compare, or, if he appoint a valuator, to cause such valuator to compare, on the ground in every case, the applicant's description, with the land of which he claims the

lease, and to remedy, if possible, any such imperfections in it as would preclude its being used in the preparation of the lease, and that to assist him in this duty he should be authorized to call in the Government surveyor stationed in the district, wherever it may become necessary to do so.

5. It would also be desirable that the Commissioner should suggest in every case to the lessee the expediency of placing durable landmarks, to show on the ground the boundaries described in the lease.

6. The adoption of the arrangements above recommended will enable the Commissioners of Crown Lands to proceed at once to prepare the estimates of the extent and grazing capabilities of the runs of which leases have been claimed, in accordance with the provisions of section 3. of chapter II. of the Order in Council. The Council, therefore, advise that the requisite instructions should now be given for their entering immediately upon the performance of this duty.

FRANCIS L. S. MEREWETHER,
Clerk of the Council.

APPENDIX.

SCHEDULE.

A.—The Surveyor-General to the Colonial Secretary, 30th September 1848, submitting observations respecting the mode of performing the surveys requisite for giving effect to Her Majesty's Order in Council of 9th March 1847, and reporting on the suggestions made by Captain Dawson on the subject - - - - - - - 10

B.—Memorandum of the Colonial Secretary's office respecting the practicability of allowing occupants of Crown lands beyond the settled districts to subdivide large runs so that they may form separate holdings - - - - - - - 11

C.—The Surveyor-General to the Colonial Secretary, 22d February 1849, reporting on a draft notice authorizing the subdivision of runs, and fixing the charges to be made on the claimants of leases for the surveys of their boundaries - - - - - 13

D.—The Surveyor-General to the Colonial Secretary, 1st June 1849, on the subject of the measurement of runs by private surveyors, under the direction of the Commissioners appointed to determine disputed boundaries - - - - - - 14

E.—The Surveyor-General to the Colonial Secretary, 20th July 1849, offering further suggestions respecting the measurement of disputed runs - - - - - 16

F 1.—Mr. James Garland to the Colonial Secretary, 13th September 1849, requesting that the notice of the 28th July 1849, respecting the surveys of runs, and the charge to be made for them on the lessees, may be modified - - - - - - - 17

F 2.—Memorial to his Excellency the Governor from claimants of leases under Her Majesty's Order in Council praying that the notice of the 28th July 1849 may be recalled, and that the surveys of runs may be performed by contract, at an expense not to exceed ten shillings per lineal mile - - - - - - - - 18

F 3.—Petition to his Excellency the Governor, from certain occupiers of Crown lands beyond the settled districts, praying that some less expensive mode of surveying their runs than that provided by the notice of the 28th July 1849 may be adopted - - 19

F 4.—Crown Law Officers to grant to the Colonial Secretary, 8th October 1849, reporting on cases submitted by Messrs. Dobie and Marsh, occupiers of Crown lands beyond the settled districts, with a view to ascertain whether there is an actual necessity for the survey of runs whose boundaries are naturally well defined - - - - 19

G 1.—The Surveyor-General to the Colonial Secretary, 16th November 1849, respecting the extent to which detailed surveys of the boundaries of runs may be dispensed with, and a reduction made in the charge for the surveys thereof, fixed by the notice of the 28th July 1849 - - - - - - - - - 20

G 2.—The Superintendent of Port Phillip to the Colonial Secretary, 17th October 1849, respecting the charge proposed to be made for the survey of runs, and transmitting the following documents on the same subject - - - - - - 22

1. Memorial from licensed occupants of Crown lands beyond the settled districts in the Portland Bay district, praying for a reconsideration of the notice of 28th July 1849, respecting the survey of runs - - - - - - 23
2. Memorial of licensed occupants of Crown lands in the Port Phillip District, agreed to at a public meeting, to the same effect as the foregoing memorial - - 25
3. Letter addressed to his Honour by Major Firebrace, an occupier of Crown lands in the Wimmera district, on the same subject - - - - - - 25

G 3.—The Superintendent of Port Phillip to the Colonial Secretary, 7th November 1849, transmitting memorial from occupiers of Crown lands in the Murray district, respecting the charge for survey of runs made in the notice of 28th July 1849, and suggesting instead a fixed rate of 10s. per lineal mile - - - - - - - 26

G 4.—Memorial from certain occupiers of Crown lands in the Sydney or Middle district, praying for a reconsideration of the notice of 28th July 1849, respecting the survey and subdivision of runs - - - - - - - - 27

H.—The Attorney and Solicitor-General to the Colonial Secretary, 18th December 1849, reporting on letter from Mr. James Garland, and memorial from occupants Crown lands in the Murrumbidgee district respecting the notice of 28th July 1849 - 27

I.—Copy of notice of 1st January 1850 - - - - - - 29

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No. 48/420. APPENDIX A.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs, for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY.

SIR, Surveyor-General's Office, Sydney, 30th September 1848.

I HAVE had the honour to receive your letter dated 20th instant, in which you transmit to me, by direction of his Excellency the Governor, a Despatch from the Right Hon. the Secretary of State for the Colonies, in which his Lordship communicates certain general instructions respecting the surveys requisite for giving effect to Her Majesty's Orders in Council of the 9th March 1847; you also transmit the report of 1840, together with a letter from Captain Dawson respecting the manner in which the surveys could in his opinion be conducted with comparatieely little expense and delay, and at the same time with sufficient accuracy for the immediate object in view.

I beg also to state, that I have perused the several letters which have been addressed by you to my department, during my absence on leave, on the various questions therein referred to, and also a copy of the evidence given by the Deputy Surveyor-General before the Executive Council on the 15th June last, transmitted to me in your letter; and I have now the honour to return the Despatch and papers, as required, and submit for the consideration of his Excellency the Governor that, as it has not been deemed expedient to adopt the course recommended by the Deputy Surveyor-General, that the survey of features and of runs should proceed simultaneously for the attainment of two important objects at once, namely, a general survey of the country and a survey of conterminous runs, I can suggest no other course than to allow the surveyors to complete the survey of the natural features on which they are now engaged. As to whether the survey of the runs should be undertaken at the expense of the public, by the present surveyors, with contractors under them, or effected, as suggested in the Despatch, at the expense of the occupants, the necessity on the part of the Crown for incurring the expense seems to me strengthened by the great importance of the objects in view. I would also remark, that as most of the runs are conterminous nothing but a survey carried on under one direction could be satisfactory, for it very seldom happens that any two surveys of the same locality agree exactly.

After a perusal of Captain Dawson's report and letter it seems probable, I would submit, that as Captain Dawson has made no mention in his letter of that report he considered it inapplicable to New South Wales under present circumstances. A "running survey" which should divide this woody rock-bound territory into rectangular divisions by chain measurements, whatever might be its advantages in South Australia or New Zealand, was not consistent with the Royal Instructions of 1825 for the survey and division of this colony; and as such a process has nevertheless been tried by Sir George Gipps (during my former absence on leave), I can safely refer to the experience of its expense and inutility for proofs that it is not the kind of survey required in this colony.

I must here beg leave to explain how different the expensive operations of a trigonometrical survey, as they are described by Captain Dawson, are from the application of the same principles to the immediate purposes of military surveying, and which, when applied here, I have found of great service in the examination and division of the country. Instead of levelling ground, measuring a base line, erecting station beacons, cutting out lines of sight, and making traverse measurements, any point of elevated rock naturally clear of timber,—plains by nature level,—or the sea-shore,—made use of for stations and a base,—remarkable trees or rocks suffice for station beacons,—elevated mountain summits (some at distances of 108 miles) required no cutting out of lines of sight, and carefully-observed latitudes on arcs of five or six degrees of the meridian ensure sufficient accuracy in the maps without any necessity being felt for traverse measurements.

Such proceedings may perhaps be distinguished from the more thoroughly scientific and costly process of trigonometrical surveying, by terming it trigonometrical examination. Further details on this subject may, I trust, be dispensed with; nor should even these have been submitted here, but for the notice of the report in the Despatch.

In the letter of Captain Dawson, I do not find that that officer is aware of what the law requires for the alienation of land. The great object in the proposed survey of runs is, not to determine their locality,—that is readily done, by the survey with a circumferentor of a track or a river,—but to obtain such a description as will serve for insertion in a lease to be issued in Her Majesty's name under the great seal of the colony. The leases are to be for eight or fourteen years, and will not "admit of any extension in fuller detail at some future time."

Captain Dawson's suggestions are for the determination only of the relative positions of homesteads, and the recognition around them of certain imaginary boundaries; particulars which might be sufficient in merely granting licences or right of commonage on a country where the occupancies were not conterminous; but in this colony, where all, or nearly all, are so, and the boundaries consist of natural features, such as ranges or scrubs, swamps or streams, the satisfactory adjustment of boundary lines becomes a matter of much

importance, and my experience enables me most fully to concur in the opinion given thereon by the Crown law officers, that "there ought to be such an accuracy of description, by reference to leading geographical features, and marked or determined boundary lines, as would enable a competent surveyor to distinguish the particular lands from all others, and inform the Government of the estimated extent and capability of the respective runs."

I perceive in the Despatch an opinion expressed "that the accurate determination of the boundaries of leases is considered an object rather of importance to the holders of these runs than to the public;" but my experience goes far to confirm me in an opinion that the case is quite the reverse, and that nothing would be more desired by lessees than that the descriptions in their leases should be imperfect, that they might "overlap," as Captain Dawson expresses it,—or that there should be discrepancies in the contents or errors that might lead to a correspondence with the Government, to a demand for another lease and more surveying, and thereby constitute a ground for nonpayment of rent. Even the holders of yearly leases have demanded that I, as bailiff of their landlady the Queen, should put them in possession.

"In no case, as it appears to me," Captain Dawson observes, "should it be deemed necessary or desirable (and certainly not for the first leases) to resort to chain measurements;" but it is directed by your letter, No. 48/165, that the homesteads, around which reserves may be made, are to be excluded by lines connecting them with the runs; whereby it is obvious that, however dilatory or expensive, chain measurements must be applied. Certainly cases may occur in which imaginary lines between well-defined points may be sufficient, with the consent of the conterminous occupants, or where there may be at the back of a run an unoccupied or unavailable country, the length of the side lines extending back might suffice to determine accurately a given area to be leased. I cannot, however, but regard the measurement of runs as the beginning of alienations which may be lasting, and therefore I think that the boundaries should be determined with as much accuracy as those of conterminous estates or farms, the only difference being in the extent of surface.

In all alienations hitherto recorded in this office, consisting of five ten, or twenty thousand acres, and even in the large grants to the Australian Agricultural Company, the boundaries have either been measured lines towards the cardinal points, or bold natural features, or as much of such at least as could be taken around lands of given superficial extent.

In conclusion, I have to submit that I find nothing in the report or letter of Captain Dawson likely to facilitate the progress or lessen the expense of the surveys now in hand. Secondly, that the Government is as much interested as the holders in the dispatch of the survey and the accurate description of the runs. Thirdly, that with respect to the evidence of Captain Perry, and the course that has resulted therefrom, I am of opinion that it had better be proceeded with for the present, although it must arise that, unless the same surveyor be employed, the frontages will all require to be measured over again. Lastly, that the progress of the surveyors is likely, I find, to enable me to determine boundaries for the additional counties, whereof descriptions are required before the end of the year for proclamation. When that first object of the Government shall have been accomplished, and the surveys of thoroughfares and water frontages can be so far advanced as to admit of the selection of reserves, the marking out and describing the boundaries of runs will then deserve the attentive consideration of the Government; and I trust I shall be prepared to complete such surveys and descriptions, according to whatever mode may be finally determined on.

I have, &c.
(Signed) T. L. Mitchell,
Surveyor-General.

The Hon. the Colonial Secretary.

Appendix B.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

Subdivision of Squatting Runs.

The enclosed memorandum was given to me by the Colonial Secretary some months ago, in order that I might offer any suggestions that occurred to me in regard to the practicability of allowing squatters to subdivide their runs; but I have hitherto been prevented from submitting any such observations, partly by reason of the pressure of more urgent matters, and partly because I was not prepared to submit any very practicable scheme for surmounting the difficulties of detail which seemed to attach to the question.

These difficulties have, however, been almost entirely removed by the decision come to by Her Majesty's Government, that the expense of measuring squatting runs is to be borne by the parties interested; and, moreover, the views of the local Government on other collateral questions seem to favour and facilitate the admission of the principle of subdivision. The most formidable objection previously entertained was the expense if de-

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frayed by the public, or the difficulty of regulating the charge, if to be borne by the party.

But as the Secretary of State has directed that the future lessees are to bear the entire expense of the measurement of their runs, it is a matter of perfect indifference to the Government whether A.B. has his run surveyed in one or in fifty blocks.

Another matter which appeared to the Colonial Secretary to require to be guarded against was the possibility of parties carrying out the principle too far.

But I think the Order in Council provides a sufficient check in this regard when it declares that no run shall in any case be let for less than ten pounds per annum.

With this enactment staring him in the face, the squatter will scarcely be inclined to carry his subdivision too far.

Thus, then, the more material difficulties have been obviated. The minor points noted in the Colonial Secretary's memorandum are—

1st. *The measurement of subdivided runs in compact blocks, &c.*

This, I believe, is sufficiently provided for by the general principles on which the surveys will be conducted, or, taking this in conjunction with the (2d) "*squaring of boundaries*" alluded to in the last paragraph, the necessary instruction could be given to the Surveyor-General.

(3.) The question as to what surveyors are to be employed has also, I believe, been intermediately determined. The surveyors will be (at least temporarily) on the strength of the survey department.

(4.) The principle involved in the fifth paragraph has already been recognised in the case of partnership runs.

The only thing, therefore, which now appears really necessary to put this matter on a simple footing is the determination of the scale according to which the future lessees will have to pay for the measurement of their runs.

On M 7,923 it is directed that a notice should issue apprising the claimants of leases that they will be required to pay the expense of obtaining the descriptions for insertion in the leases.

Would it not make this intimation much more complete and satisfactory were it notified at the same time what would be the scale of charges?

Again, the impression on the public mind is very general that the Government would be at the entire cost of the measurement of squatting runs, as in the case of grants of land in former years. The announcement, therefore, that the Home Government has arrived at a different decision, cannot fail to be unpalatable to the squatter. This feeling would, however, be somewhat qualified if it were at the same time announced to him that once his claim to the outward limits of his run had been recognised he would be at liberty to have it measured in any way he pleased.

I believe there is no necessity to add a single word as to the expediency in a public point of view of permitting the subdivision of runs. Abstractedly its expediency was never doubted, and the admission of the principle was suspended by reason only of the difficulties already adverted to, and which now no longer exist.

December 13, 1848

From the CHIEF COMMISSIONER of CROWN LANDS, returning the Memorandum (and accompanying Papers) on the Subject of the Subdivision of Squatting Runs.

As far as my brief experience extends I am not aware of any objection to carrying out the intentions contained in the memorandum herewith returned.

I have already received several applications for permission to subdivide runs; and I judge that such permission would be considered a boon by parties holding runs of a certain extent. The boon, no doubt, will at first be met by a counter-effect in the knowledge that parties are to pay the expenses attending the surveys; yet the advantages of subdivision seem to be so much in favour of the squatter that it will probably be considered fully equal to the additional expense attending the survey, &c.

I do not apprehend the probability of parties carrying out the subdivision too far.

It occurs to me that subdivision must have the beneficial effect of condensing the population, affording better protection to persons and property, and leading to more desirable social habits, all of which are important considerations as well for the Government as for individuals.

I am not aware of the necessity for any observation on the details necessary to carry out the proposed measure; but as the regulations relating to the occupation of Crown lands require revision, the occasion, perhaps, now offers for such revision, to which may be added any new instruction.

(Signed) GEO. BARNEY,
Chief Commissioner of Crown Lands.

January 17, 1849.

No. 49/99. APPENDIX C.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, on a Draft of a Notice authorizing the Subdivision of Runs, and relative to Charges for the Survey of Subdivisions of Runs.

Surveyor-General's Office, Sydney,
22d February 1849.

SIR,

I HAVE the honour to acknowledge the receipt of your letter No. 49/61, of the 16th February, informing me that his Excellency the Governor, with the advice of the Executive Council, having in contemplation to publish the notice of which you enclose a draft, you are desired to request that I will report as to the increase of business which the subdivision of runs proposed to be thereby authorized will be likely to cause in my department, and as to the best means of providing for its effective performance, and that I will also submit the rates of charges to be made for surveys according to the nature of the country to be surveyed, so that they may be announced to the public.

2. In reply to the inquiry as to the increase of business which the subdivision of runs is likely to entail upon my department, I have the honour to point out, that although in the memorandum attached to my letter No. 48/478, of the 1st November, I endeavoured to convey some idea of the amount of work likely to be required in the survey of runs, still the estimate was far from satisfactory. But ignorant as I am entirely of the views of the squatters on the subject of the subdivision of their runs, it does not seem possible for me to offer an opinion as to whether the applications for subdivision may be few or many.

3. Then as to the best means of providing for the effective performance of the subdivisions, if required, I can only observe, that the survey of a run and of the subdivisions should be performed simultaneously by the surveyor and his party in the manner approved of by the Governor and Council, as intimated in your letter No. 48/565, dated 1st December last, in accordance with the suggestion in my memorandum above alluded to, and that the only question, therefore, is a question of time, governed by the amount of labour.

4. In reference to the request that I will also submit the rates of charges for surveys, according to the nature of the country, as set forth in the draft notice, I beg again to refer to my memorandum, in which I stated that contracts would not be undertaken at less than about two pounds per mile, and as far as I have been able to gather from the views of my own surveyors and of the private surveyors who contemplated being employed as contractors, that sum, embracing all expenses, is considered to be about the amount at which respectable surveyors would tender, and I conclude that the charge to be made to the public should be founded upon such data, and the charges might then be as follows :—

	Per Mile.
Open plains or downs	£1 0 0
Open forest	1 10 0
Light scrub	2 0 0
Swamps	2 0 0
Dense scrub or brush	3 0 0
Broken and mountainous	3 0 0

In requiring the public to pay for the survey of these runs in this manner, those who have the worst and least extensive runs will have to pay the most, so that it would, perhaps, be more equitable to the squatters were one uniform sum demanded, an arrangement which would be greatly facilitated by the subdivision of runs now determined on, for the division of the territory into parishes, as required by my instructions. Could this be readily accomplished a parish is to contain about 15,000 to 20,000 acres. Were it possible, therefore, to make the extent of each run about this area, each run might at once be considered as a parish, and thus a great step in the subdivision of the territory would be gained ; and supposing, also, that this subdivision were continued by the surveyors, although the land might not be occupied the Government would be in a position at any time to receive a tender for a lease of any particular parish ; and in all subsequent dealings with runs, whether for legal or other purposes, their being parishes would stamp them with a determinate character which they might not otherwise for long periods obtain.

An arrangement which should make every run a parish, or two parishes, if needful, would greatly assist the arrangement for reserves, it having been customary, in acting under the royal instructions, to make at least one village reserve of a section or half a section in each parish. I have considered it proper to make these suggestions for his Excellency's consideration.

I have, &c.
(Signed) T. L. MITCHELL,
Surveyor-General.

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Appendix D.

No. 49/266. APPENDIX D.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, on the Subject of Measurement of Runs by Surveyors under the Direction of the Commissioners.

Surveyor-General's Office, Sydney,
1st June 1849.

SIR,

I HAVE the honour to acknowledge the receipt of your letter No. 49/231, of the 22d ultimo, transmitting to me a letter addressed to you by the Chief Commissioner of Crown Lands respecting the application of Mr. E. O. Kiffin, surveyor, to be employed in measuring disputed boundaries under the instructions of Mr. Lockhart, one of the Commissioners for reporting upon disputed claims to leases of Crown lands, and informing me that you are instructed by his Excellency the Governor to request my opinion on the subject.

2. As this is the first opportunity which has presented itself of offering any remarks upon the Act of Council under which it is required to appoint Mr. Kiffin, I beg to observe, that as it would appear from the seventh clause of the Act licensed surveyors are to prepare under the direction of the Commissioners what are technically called "measured descriptions" for insertion in the leases of all disputed runs, considerable embarrassment to the Government would, I fear, result, unless the undisputed conterminous runs were measured, marked, and described at the same time by the same surveyor.

3. I must also invite his Excellency the Governor's attention to the circumstance, that hitherto in most if not all the colonies of Great Britain, and in this colony particularly, the boundaries of lands to be alienated have been, in the absence of sufficient natural boundaries, such as streams, determined by lines directed to the cardinal points of the compass; and it appears to me to be desirable that some rule respecting this speciality in the surveys should be laid down, before the Commissioners and the licensed surveyors enter upon these duties, unless, indeed, it be intended to follow implicitly the very irregular boundaries which, as I gather from the descriptions that have appeared from time to time in the "Gazette," are the result of mere accidental occupancy. Certainly under the 11th section of the Orders in Council holders in licensed occupation are to be entitled to demand leases of their runs; but as this section is preceded by a section (7 of chapter 2.) under which a rectangular arrangement, lines to the cardinal points, and an observance of the rules of my office, are provided for, I may perhaps be permitted to express a doubt whether it was the intention of Her Majesty's Government to grant leases without subjecting them to the regulations and arrangements extant in the colony.

That such an impression existed in Downing Street is gathered from Earl Grey's Despatch of the 27th February 1848, enclosing Captain Dawson's report, who proceeds on the assumption that all lots of land must be rectangular, and that the lines are directed to the cardinal points. He says—

"The regulations as to the divisions of the lands in New South Wales prescribe *as a general* rule that each lot must be rectangular."

And again he says—

"The regulations above referred to further require that in every case two sides *at least* of the lot must be directed to the cardinal points of the compass." Indeed, so sure does Captain Dawson appear to feel that a rectangular arrangement is intended, that he even proposes to recommend that the boundaries of the runs shall be lines, not marked, but directed to the cardinal points, at stated miles of distance from the homesteads. I may, I think, venture to say that had some rectangular arrangement governed the proceedings on this subject at their commencement the disputed boundaries would have been but few, and those few, when subjected to rule, might have been easily settled by the fiat of the Governor; but now I believe at least one half of the runs are in dispute.

I forbear at present to enter further on this part of the subject, but I should be prepared to show the great advantage that would result from an adherence to rule, should his Excellency the Governor deem it necessary to call upon me to do so.

4. I have also to request his Excellency's attention to the circumstance of the preliminary surveys and plans thereof, and the arrangements for reserves, not being yet completed, and to observe that I anticipate when the reserves are announced in the "Gazette" considerable opposition and correspondence on the part of some of the holders, and that until the reserves can be determined upon it will not, it appears to me, be prudent for the Commissioners to enter upon the settlement of disputed runs, and prepare for insertion in their final reports descriptions to be used in the leases.

5. It appears to me that matters are not ripe for the proceedings of the Commissioners, and consequently the appointment of Mr. Kiffin, and a sufficient number of licensed surveyors, should not take place at present. I conclude Mr. Lockhart has entirely misunderstood Colonel Barney's instructions to him as to employing the surveyors under my directions, it being quite clear by the Act of Council that the measurement and marking of disputed runs is to be paid for by the parties themselves, and not by the Government, as would result where salaried surveyors were employed.

6. I cannot dismiss this subject without expressing my apprehensions that what has been done may lead to some inconvenience and embarrassment. I allude to the arrangement by which, as it appears to me, a distinct survey department is created, for under the Act of Council in question surveyors are to be employed by the Commissioners, the Commissioners are instructed by the Chief Commissioner of Crown Lands, and the whole process of survey is to be completed, up to the description of for insertion in the leases, without the intervention or control of the Surveyor-General.

7. I have considered it proper—almost imperative upon me—thus to express my sentiments on this subject, and I feel assured that his Excellency will attribute these remarks only to a desire to promote the interests of the public service.

I have, &c.
(Signed) T. L. Mitchell,
Surveyor-General.

No. 78/49–1789 Enclosure to the foregoing. Enclosure.

From the Chief Commissioner of Crown Lands to the Honourable the Colonial Secretary on the Subject of the Employment of Mr. E. O. Kiffin (Surveyor resident in the Murrumbidgee District) in measuring disputed Boundaries, under the Instruction of Mr. Commissioner Lockhart.

Sir, Crown Lands Office, 11th May 1849.

I have the honour to transmit, for the consideration of his Excellency the Governor, a communication from Mr. Lockhart, Commissioner for disputed boundaries, requesting instructions as to whether he is to be confined to the assistance of the Government surveyors, or whether his Excellency will approve of the appointment of Mr. E. O. Kiffin, a civil surveyor, (residing in the Murrumbidgee district,) for the purpose of the survey of the boundaries in dispute in that district.

Accompanying Mr. Lockhart's letter is an application from Mr. Kiffin to be attached to the Commissioners as surveyor.

I perfectly coincide with the Commissioner in considering that the appointment of Mr. Kiffin would much expedite the surveys.

Mr. Kiffin is prepared to submit testimonials of capability. In the event of his appointment it should be clearly understood that itwould not give him any claim for being employed beyond the service in question; and the payment would be in accordance with the scale fixed by Government. It may, perhaps, be desirable to take the opinion of the Surveyor-General on this subject.

I have, &c.
(Signed) Geo. Barney,
The Hon. the Colonial Secretary. Chief Commissioner of Crown Lands.

Enclosure referred to. Enclosure.

Mr. Charles G. N. Lockhart, Commissioner to report upon disputed Boundaries of Runs, to George Barney, Esq., Chief Crown Land Commissioner, Sydney, for further Instructions under the Act.

Sir, Albury, Hume River, 23d April 1849.

I do myself the honour to acknowledge the receipt of your communication of the 13th April 1849, containing my commission to act under the 11th Vict. 61. in reporting upon disputed boundaries of runs, a copy of the Act under which I am appointed, and your written instructions for my guidance in the performance of my duties. As soon as I receive the printed forms alluded to in your margin I shall be in readiness to commence my duties, and I shall do my utmost to merit the confidence placed in me by the Governor.

I hope that it will not be considered presumption in me to draw your attention to the 14th, 15th, and 16th paragraphs of your instructions, and the 7th clause of the Act, which refer to the employment of a surveyor under my instructions.

The fifteenth paragraph of your instructions makes it incumbent upon me "in every case to embody in my report measured descriptions of the run in dispute according to which I would recommend the lease to issue."

In the fourteenth paragraph of your instructions I am referred to a *Government* surveyor for assistance so to do; whilst by the sixteenth paragraph of your instructions I am at liberty to allow former surveys to be brought forward to elucidate the facts of the case, provided that such surveys meet my view of the justice of the case. In the 7th clause of the Act I am at liberty to call in any surveyor to my assistance, "duly appointed by his Excellency the Governor in that behalf."

My object in calling your attention to these clauses is, that although there are two surveyors now working in the Murrumbidgee district, who are upon the Surveyor-General's staff, I should imagine that it would be detrimental to the public service if they were to be constantly interrupted in their operations by me, and that the public would be in a great degree paying the expenses of the survey ordered by me, but which, according to the Act, is meant to be borne by the party against whose claims I report. It would also

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cause great delay in my operations if I am obliged to call upon one of those Government surveyors from a great distance.

The lower part of the Murrumbidgee and the Lower Darling districts are of that low flat open description of country that the runs have no natural boundaries, and I am sure that I will very often have to call in assistance to run the lines by compass.

I would, therefore, beg to be more fully instructed as to whether I am to be confined to the assistance of the Government surveyors, or whether I am at liberty to call in a private surveyor to my assistance, such surveyor having been "duly appointed" by his Excellency the Governor in that behalf (11 Vict. c. 61–7.)

There are several private surveyors at work in the district to which I am ordered. Many of the runs have been surveyed, principally by a Mr. E. O. Kiffin, whose application to you for an appointment under the Act I take the liberty of forwarding. I may here mention that I myself understand surveying. I have seen Mr. Kiffin at work, and can depend upon his accuracy. It would be the means of expediting my reports very much if I had a surveyor *near* me to call in when requisite.

Mr. Kiffin has promised to be always at hand if he is required by me. The certificate to which he refers in his application I have inspected, and I beg leave respectfully to second his application.

I have, &c.

George Barney, Esq., Chief Commissioner of Crown Lands, Sydney. (Signed) CHARLES GEORGE NORMAN LOCKHART.

Enclosure to the foregoing.

To Colonel BARNEY, Chief Commissioner of Crown Lands.

SIR, Albury, 23d April 1849.

BEING a surveyor resident in the Murrumbidgee district, and having been employed in the survey of a considerable number of runs in that district, I beg leave to apply to be attached to Commissioner Charles George Norman Lockhart, Esq., as surveyor, in such cases of disputed boundaries in which the services of one may be deemed necessary.

I was employed on the Government staff in South Australia for a period of four years, and left that service in consequence of the work remaining to be done being no more than could be undertaken by the sappers and miners who accompanied Major Frome, the Surveyor-General, to that colony. I hold a certificate from Major Frome, and one from Mr. Henderson, Acting Deputy Surveyor-General, which, if called for, will be produced.

Upon leaving the survey department I was employed by Governor Grey in Adelaide for a length of time as his private clerk and aid-de-camp.

Soliciting your attention to my application,

I have, &c.

(Signed) E. O. KIFFIN.

Appendix D.

No. 39/356.

APPENDIX E.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, respecting Measurement of disputed Runs.

Surveyor-General's Office, Sydney,

SIR, 20th July 1849.

I have the honour to acknowledge the receipt of your letter No. 49/334, of the 17th instant, in reply to my communication No. 49/266, of 8th June 1849.

2d. Before proceeding to make arrangements for the very important matters which your communication involves, I think it proper to submit, for the consideration of his Excellency the Governor, that it would be a far more simple and desirable course were the final report of the Commissioner, and the plan and description to be furnished by the surveyor, confined to that part only of the boundary between runs which may be in dispute, and I venture, therefore, to suggest, that unless it be understood that the wording of the Act of Council 11th Victoria No. 61. would warrant such a course, it would be expedient to have the Act so amended that the description to be inserted in the final report of the Commissioner should relate to the disputed part of the boundary merely, and not embrace the whole of the boundaries of the two runs, so as to serve for insertion in the leases.

3d. The arguments in favour of the above proposal are, that as the work of the surveyors is to be subjected to my supervision, and the returns and surveys to be sent to my office, it is obvious that the descriptions for the leases required to be inserted in the Commissioner's final report before they can be paid, could only be obtained through me, and consequently that there may be delays, giving rise to great dissatisfaction on the part of the Commissioners; whereas, as the decision and interference of the Commissioners ought in strictness to have reference only to the part of the boundary in dispute, the description

of that part could be inserted in his final report, and then the Commissioner and the surveyor could be paid at once; then, the final report and the surveyor's plan being deposited in my office, the Commissioner's line could be incorporated with the other boundaries of the runs when they came to be all measured consecutively, when the preliminary surveys are finished and the reserves announced.

4th. Moreover, as the party in the dispute against whom the Commissioner may decide is to be compelled to pay for the survey, it is obvious that, unless the survey be confined to the disputed part, the loser will have to pay for the entire survey of the boundaries of his opponent's run as well as his own, perhaps some 40 or 50 miles of each, when the part in dispute may embrace only a few miles; nor do I perceive, unless the report be confined to the part in dispute, how the Commissioners are to avoid sending in two reports on each dispute instead of one. They may certainly insert in the one report both descriptions; but then, in case of one person having disputes with two or three neighbours, the reports would become very complex and embarrassing to the Commissioner, as was the case under the first Commissioners of the Court of Claims.

I have, &c.
(Signed) T. L. Mitchell.

P.S.—I am not acquainted with the present address of Mr. Kiffin, and as I wish to see his testimonials, it will be necessary that the papers relating to this gentleman's application be returned to me.

T. L. M.

Appendix F. 1.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847

James Garland Esq. to the Colonial Secretary.

Sir, Toomah, Hume River (via) Turcutta, 13th September 1849.

In accordance with the Orders of Her Majesty in Council respecting the disposal of lands in the unsettled districts of this colony, I applied for the leases of the Toomah and Maragh stations in the Murrumbidgee district, and clearly understood that it was intended by the Government only "to reserve" on such demise or licence "any such rent "or pecuniary or other service as should be prescribed or authorized" in the Imperial Act 9 & 10 Vict. c. 104. I observe, however, that by an order of the local Government, of 28th July last, a sum will be required from me for the survey of these runs equivalent to five years rent at the least.

The above runs are limited by natural boundaries, undisputed by any of my neighbours; and I conceive, therefore, that for the purposes of a lease a survey is not in any way requisite, especially as I am perfectly willing to take my leases with the descriptions which I have given in my applications for them. It may perhaps be necessary to identify the main points at the commencement and termination of the principal lines, but this I apprehend could be fully accomplished by the parties appointed to estimate the capabilities of these runs.

In a broken country, such as that in which my runs are situated, a minute survey of their tortuous boundaries, at the rate required by Government, would be ruinous in the extreme, and more especially would this be the case as regards the Maragh run, the superficial area of which is very estensive in proportion to its capabilities, and which is bounded on two sides by unavailable mountains, without contiguous squatters to share the expense of the survey. In fact I do not think that the value of this latter run, or of many others in the neighbourhood, will be worth the expense of surveying; and the order, therefore, if carried out, will in all probability cause an entire surrender of them by the occupants.

I may here mention, that I am impressed with the idea that the order respecting the surveying and subdividing of the runs of the squatters is incompatible with the 2d section of the Act above alluded to, when viewed in connexion with the 18th section of 5 & 6 Vict. c. 36., and that "rents or pecuniary service" cannot be applicable to any other purpose until the *expense of the survey* and management of the waste lands of the Crown shall in the first instance be defrayed therefrom.

With these opinions, and being fully assured of my inability, in the present state of the wool market, to meet such an unexpected demand on my resources, I do myself the honour respectfully to represent to you, for the consideration of his Excellency the Governor, the expediency of withdrawing this order, as regards those to whom such a survey can be of no service, and in other respects of modifying it in such manner as shall be more suitable to the exigencies of the times.

I have, &c.,
(Signed) Jas. Garland.

The Hon. the Colonial Secretary,
&c. &c.

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Appendix F. 2.

Appendix F. 2.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1849.

To his Excellency Sir Charles Augustus FitzRoy, Companion of the Royal Hanoverian Guelphic Order, Captain General and Governor in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same.

The memorial and petition of the licensed squatters beyond the boundaries of location of the said colony whose names are hereunto affixed, humbly sh weth,—

That your memorialists have availed themselves of the provisions of Her Majesty's Order in Council of the 9th March 1847, by claiming leases of their respective runs.

That your memorialists claim as a right that the surveys necessary for the effectual completion of these leases should be made in the least expensive manner compatible with the end in view.

That therefore your memorialists have been much alarmed at a notice from the Honourable Colonial Secretary, dated the 28th July 1849, ordering that the expense of such surveys should be charged at a uniform average rate of 2*l.* per lineal mile.

That your memorialists consider the rate proposed to be an excessive one.

That in your memorialists opinion an average rate of even 1*l.* per lineal mile would be too high a one, which opinion your memorialists support by the following reasons :—

I. That the contract price of surveying Crown lands in the district of Port Phillip was only 1*l.* per lineal mile when there existed a great demand for the services of surveyors, and your memorialists have every reason to believe that these surveys gave satisfaction. Although during the period in which these contract surveys were carried on the expenses of equipment were enormously high, the contract surveyors were understood to have made handsome profits, and in as far as regarded pecuniary matters to have been in a better position than were the surveyors upon the Surveyor-General's staff.

II. That a moderately active surveyor can chain over and plot off at least six lineal miles daily. In a favourable country this rate has been nearly doubled for weeks together. In order to do this the expenses of such surveyor, upon the most liberal footing, need not exceed 30*s.* per diem.

III. That many of your memorialists have had satisfactory surveys of their runs made at an average rate of 5*s.* per lineal mile; but in such cases of course your memorialists provided men to assist in such surveys.

IV. That from the extremely easy and long-continued system of surveys necessary to obtain the description of your memorialists boundaries, your memorialists conceive that such could, should, and would be contracted for at a very low uniform average rate.

This memorial further humbly showeth,—That in the notice from the Honourable the Colonial Secretary of 28th July 1849, no provision is made for cases in which one line is the common boundary of two contiguous runs.

That your memorialists consider that such line should not be paid for twice over, but that the expense of surveying such line should be divided between the two parties whose runs are contiguous. Such provision being made, the expense of obtaining the requisite survey would be much lightened to many of your memorialists.

That your memorialists do not perceive how a satisfactory computation of the number of miles to be paid for can be made beforehand, as presumed in the 3d paragraph of the notice from the Honourable Colonial Secretary.

That your memorialists beg leave to assure your Excellency, that from the low prices obtained in Europe for the staple productions of the colony and from the great cost of raising such productions, few, if any, of your memorialists will be able to avail themselves of the privileges guaranteed to them by Her Majesty's Order in Council if such a price as the one proposed must be paid for them.

Your memorialists therefore pray,—

That your Excellency will cause to be recalled the notice from the Honourable Colonial Secretary, dated the 28th July 1849, fixing a uniform average rate of 2*l.* per lineal mile as the price to be paid by your memorialists for the surveys of the boundaries of their runs, and that your Excellency may graciously accede to the further prayer of your memorialists, namely, that the surveys necessary to obtain descriptions of the boundaries of the runs for which leases are to issue may be performed by contract by tender ; the price of such contract not to exceed 10*s.* per lineal mile.

That where runs are contiguous, the expense of surveying the dividing lines may be borne equally by the claimants of leases for the runs to which such lines are common.

That so soon as such surveys shall have been completed, but not before, the party holding such run shall be called upon to pay into the Treasury the expense of such survey. In default of such payment within a reasonable time, summary measures may be adopted to recover the same : provided always, that in the event of any one who has demanded a lease not wishing such lease to issue, it shall be in the power of such person to give notice thereof a reasonable time previous to the commencement of such survey, in which case all claim for lease for such run on behalf of such person may be absolutely forfeited.

And your memorialists, as in duty bound, will ever pray.

Here follow 47 signatures.

Appendix F. 3.

Appendix F 3.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

To his Excellency Sir Charles Augustus FitzRoy, Knight, Governor, &c., &c., and the Honourable the Members of the Executive Council.

The petition of the undersigned settlers of New South Wales respectfully showeth,—

That your petitioners have seen with considerable alarm a Government notice, dated 28th July 1849, published in the Gazette, wherein it is ordered that all runs beyond the settled districts are to be surveyed, and the expense of the survey charged to the leaseholders, at the rate of 2*l.* per linear mile of boundary.

That your petitioners find that the expense of this survey, as nearly as they can judge, will average about 100*l.* for each leaseholder, and which, considering the present depressed state of the produce market, and the embarrassed state of the colony in general, is more than can justly be expected that the leaseholders are able to pay.

That your petitioners consider that the charge to be made for surveying is exorbitantly high, and that it could be accomplished by contract at a much less expense.

Your petitioners, therefore, humbly pray that your Excellency and the Honourable the Members of the Executive Council will take this petition into your consideration, and sanction some less expensive means of measuring the boundaries of the lands to be leased.

And your petitioners will ever pray.

Here follow 59 signatures.

No. 49/8345.

Appendix F. 4.

Appendix F 4.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The Honourable the Attorney-General and the Solicitor-General to the Honourable the Colonial Secretary, respecting Survey of Runs of Messrs. Dobie and Marsh beyond the Settled Districts (4 Enclosures).

Attorney-General's Office, Sydney,
8th October 1849.

Sir,

We have the honour to acknowledge the receipt of your letter of the 30th August last, No. 49/658, referring to us, by direction of his Excellency the Governor, for our opinion thereon, the proposal contained in the accompanying communication from Messrs. Dobie and Marsh, respecting the survey of runs beyond the settled districts.

2. In returning that letter we beg leave to state, that where a piece of ground is well known, and its boundaries well defined, it might suffice to describe it merely by its usual name, even in a grant from the Crown, as, for instance, "The Sydney Race Course;" but we imagine that no *run* can be safely described in this way, and, if not, the certainty of the description would not be much aided by adding the names of other runs which bound it.

3. It appears to us, therefore, that the written descriptions 1 and 2 and sketch No. 2, sent herewith, would be insufficient for certainty, but that description 3 and sketch No. 1 would be sufficient.

We have, &c.
(Signed) J. H. Plunkett, Attorney-General.
W. Foster, Solicitor-General.

Messrs. Dobie and Marsh to the Honourable the Colonial Secretary.

Sydney, 24th August 1849.

Sir,

In reference to the notice in the Government Gazette, dated 31st July 1849, relative to the surveys of runs beyond the boundaries of location, we have been induced to draw up cases for the consideration of his Excellency the Governor, by which, if the proposition is carried out, the enormous expenses of these contemplated surveys may be considerably reduced, if not in some instances altogether abolished. Sir Charles FitzRoy is already aware of our views upon this matter; and we have now the honour to forward the accompanying documents to you, that you may be pleased to lay them before his Excellency the Governor, in order that he may adopt such a course as he may deem fit, to arrive at a just conclusion upon the subject.

We have, &c.
(Signed) John Dobie.
M. H. Marsh.

The Hon. the Colonial Secretary,
&c. &c. &c.

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ENCLOSURE to the foregoing.

1st. Whether a lease by the Crown to A.B. of a run known by the name of C.D. is void from uncertainty.

2d. Whether a lease to A.B. of a run described in the lease as known by the name of Salisbury, bounded on the east by the run of C.D. known by the name of Gostwick, on the south-east by the run of E.F. known by the name of Europambula, on the south-west by the run of G.H. known by the name of Willamera, on the west and north by the run of I.J. known by the name of Murrypueya, is void, from uncertainty of description.

3d. Whether a lease to A.B. of a run described as known by the name of Salisbury, bounded on the north by a creek known by the name of the Inch Creek, between the aforesaid run of Salisbury and the run of C.D. known by the name of Gostwick to the junction of the said Inch Creek with a creek known by the name of Cook's Creek, thence by the said Cook's Creek to a point known by the name of Red Rock Point, thence by the top of the range dividing the waters running into the said Cook's Creek from the waters running into a creek known by the name of Gostwick Creek to a marked tree on the same range, being the boundary between the said run of Gostwick and the run of E.F. known by the name of Europambula, thence from the said marked tree by a range dividing the waters running into the said Cook's Creek from the waters of a creek known by the name of Europambula Creek to a marked tree, thence by a range dividing the waters of the said Europambula Creek from the waters of a creek known by the name of Black-nob Creek to a marked tree, thence in a straight line to a marked tree on a creek known by the name of Willamera Creek, thence along the said creek dividing the aforesaid run of Salisbury from a run in the occupation of G.H. known by the name of Willamera to a marked tree on the said creek, thence in a straight line to the top of mountain known by the name of the Sugar Loaf, thence in a straight line to a marked tree on a plain known by the name of Murrypueya Plain, thence in a straight line to a marked tree on the nearest part of a range known by the name of Harnham Hill, thence along the top of the said range to a marked tree thence in a straight line to a marked tree on the first-mentioned Inch Creek, is void from uncertainty of description.

In reference to the run No. 2, part of this is in the settled and part in the intermediate districts. It may be a question who shall pay for the survey in the settled part.

With respect to the land on the north of No. 2, as the land there is unoccupied, and unfit for use, and consequently never will be occupied, who will be called upon to pay for the survey of the unoccupied part? Should the possessor of run No. 2, and those gentlemen on the east and west boundaries, agree to their boundaries, sign the leases of each other, and bind their heirs and assigns, would not this be valid and sufficient description?

Appendix G.

No. 49/584. APPENDIX G 1.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, relative to the Necessity for surveying Runs, and the Cost thereof. (10 Enclosures.)

SIR, Surveyor-General's Office, Sydney, 16th November 1849.

I HAVE the honour to acknowledge the receipt of your letter, transmitting a copy of a Minute of the proceedings of the Executive Council on the subject of the measurement of runs beyond the settled districts, together with the original papers on which the proceedings of the Council were founded, and informing me that you are directed by his Excellency the Governor to request that I will take them under my immediate consideration, and report my opinion as to the extent to which detailed surveys of the boundaries of runs may be dispensed with, in accordance with the view taken by the Crown law officers in their opinion of a description of the Salisbury run, which they pronounce to be sufficient for the object in view, namely, insertion in a lease; and that I will state whether any, and if any, what reduction can be made in the charge for the surveys which was notified on the 28th July last, in accordance with the recommendation contained in my letter of the 22d February, No. 49/99.

2. Addressing myself, in the first place, to the consideration of the possibility of dispensing with detailed surveys for the purpose of defining the boundaries of the runs, and obtaining a proper description for insertion in the leases thereof, I beg to state that, without entering upon the numerous arguments that might be adduced to show the absurdity of the opinions which prevail out of doors that a detailed survey may be dispensed with, I would merely observe, that the one necessity for determining the true position and boundaries of the reserves to be taken out of the runs is a circumstance which by itself is sufficient to show that a correct survey is unavoidable. No doubt such a description as that of the Salisbury run would, as the Crown law officers state, be sufficient; but, as observed above, the position of the reserves must be determined, and as I conclude, the description must be also verified by the Government, so that the run may be placed correctly on the maps, and the Government assured that there may not be misunderstanding as to the extent and direction of the natural features. It might

be disputed, for instance, "which of the tributaries of a stream was intended for the boundary." The only true reference would be a correct map, and a correct map cannot be obtained without a correct and detailed survey, and without a detailed survey the position of the marked trees (see sketch of Salisbury run) could never be ascertained, if they happened to be burnt down or wilfully destroyed, and trees, similarly marked, attempted to be substituted. The destruction or removal of landmarks was an offence in very ancient times, and to provide against it here seems only prudent and reasonable.

3. Then, as regards the rate of expense to be charged to the squatters, of 2*l.* per mile for the measurement of these runs, I think it proper to state that in my opinion no charge whatever should be made on the squatters, for reasons which will I believe appear in numerous letters,—charges made on individuals for the measurement of the waste lands of the Crown, and tending to weaken the power and authority of the Government in dealing with those lands. My letter, No. 49 99, was written in compliance with a request that I would report on the probable charge for surveying the runs by contract, and I accordingly endeavoured to obtain every information on the subject, by reference to my own and to private surveyors, and to the New Zealand contracts, and my estimate embraced the whole expense to be incurred by the departure from Sydney of respectable and responsible surveyors, but I did not recommend any charge to the squatters. No doubt in the bush there may be found unemployed and inexperienced unscientific surveyors, who would be glad to go over the lines for 10*s.* or even for 5*s.* per mile, as stated by the applicants. I gather, however, from Mr. Townsend's communications, that on the flat country of the Murrumbidgee district 10*s.* per mile would be a sufficient remuneration, and I therefore see no objection to a reduction of the charge to that amount, as required by the applicants, or to any other rate which the Executive Council may see fit to determine. There will, I apprehend, be far less to charge for than the squatters imagine; for instance, when the departmental surveyors, who will then have completed the preliminary survey of features, are employed upon the runs, they can adopt those features without making a re-survey of them, and consequently the Government will not probably be disposed to make a charge for what is already paid for, and required for a general map to show the reserves which are made for the general benefit and convenience of the public at large, and are viewed by the squatters—but, as I think, very erroneously—contrary to the interests of them, the lessees. I conclude no charge should be made for the survey of the lines forming the boundaries of such reserves. There will also be only half the cost on each of the two runs as far as their boundaries happen to be conterminous, so that, after all, the extent to be paid for would be much reduced. In fact, with the exception of the straight lines, the survey of features and of reserves are indispensable to the Government. I am not aware why the surveys should be charged to the squatters, if it is to be clearly understood, as I hope it is, that they are merely to hold the land for grazing purposes, and for a limited time. I would take leave to repeat, that the proper course would be, to suspend the issue of leases until the preliminary surveys are completed, and the whole of the reserves can be determined upon, duly announced in the Gazette, and the grazing extent finally agreed to by the lessees.

4. According to law, the survey of disputed runs must be, I am aware, proceeded with presently; and it becomes a question, therefore, whether they, the squatters, are to pay for the survey of those features which the course of survey would eventually determine, and which, as before stated, are indispensable for the completion of the maps of the counties; indeed, whether individuals under peculiar circumstances are to pay for what should be a charge upon the whole community, as provided for by Act of Parliament, and alluded to in the very sensible letter of Mr. Garland.

5. I have thus endeavoured to convey to his Excellency, for the consideration of the Executive Council, my views on the two points referred to me, viz., that a proper survey of the boundaries of the runs cannot, on public grounds, and with due regard to the security of the Government, be dispensed with; and, consequently, that the charge, if any, to the lessees of particular runs, in cases of dispute, should be made as light as possible.

6. I will now take leave further to observe, that ever since the promulgation of and the adherence to the letter of the Orders in Council I have perceived the difficulty that would arise in obtaining descriptions of the lands to be leased; but I have never yet been able to satisfy myself that any other than the most complete survey of the boundaries, and a most perfect description, could be available. The squatters seek fixity of tenure and undisputed possession; and without an accurate survey, and a perfect description, it is not likely they can obtain either. If left in possession, with doubtful boundaries and inaccurate descriptions, I can certainly say from experience that they might finally not be in a worse position, as holding against the Crown in this colony; but I conceive that it behoves the local Government to take especial care of the interests of the public as to final arrangements, and I mean, not only the interests of the public now in Australia, but of that more numerous public at home, for whose use and benefit these lands, and the economical division and administration of them, are required and intended.

I have, &c.,

(Signed) T. L. Mitchell.

The Hon. the Colonial Secretary,
&c. &c.

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Appendix G. 2.

No. 49/202. APPENDIX G 2.

To PROCEEDINGS of EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council in 9th March 1847.

The SUPERINTENDENT of PORT PHILLIP to the COLONIAL SECRETARY, respecting the Survey of the Boundary of Runs. (With three Enclosures.)

SIR, Superintendent's Office, Melbourne, 17th October 1849.

REFERRING to my letter to you of the 20th August, acknowledging the receipt of your communication dated the 7th ult., No. 49/568, drawing my attention to the notice in the "Government Gazette" of the 31st ult., on the subject of the expense, &c., of the measurement and subdivision of runs of Crown Lands beyond the settled districts, and remarking that in the absence of all information as to the data on which the rate to be charged for the surveys in question had been determined, and of the manner in which the surveys of the boundaries of runs are actually to be carried out, I was disposed to consider the charge of two pounds for every mile of lineal measurement exceedingly high, indeed so high that in many instances it must be expected to interpose an obstacle to the survey of runs and to the issue of leases under the Orders in Council. It is now my duty to transmit, for his Excellency's consideration,—

1st. The enclosed memorial, addressed to his Excellency the Governor and the Honourable the Executive Council, by certain licensed occupants of Crown lands beyond the settled districts in the Portland Bay district, praying for a re-consideration of the subject; and,—

2d. A memorial to the same effect, addressed to his Excellency the Governor by certain licensed holders of Crown lands in public meeting assembled on the 10th September.

Not having received any further communication on the subject since the date of my letter to you of the 20th ult., No. 49/165, I think it may be as well for me to offer the following observations:—

1. I may perhaps be permitted to assume, first, that, whenever practicable, leases must be issued, sooner or later, under the provisions of the Order in Council, to all who have made application in due form,—and, further, that *all* the occupants of Crown lands for depasturing purposes beyond the settled districts who are in a position to do so have sent in such applications.

2. If this be the case, and if it be further held necessary that the actual survey of the boundaries of the respective runs must take place before the leases can issue, it appears to me that this survey in every instance must be undertaken and effected as a matter of course, independently of any such special application on the part of individual settlers as appears to be looked for in the notice of the 28th July 1849, the rather as in by far the greater majority of instances the survey will determine lines forming the common boundaries of adjacent runs.

Although only one of the occupants of such adjacent Crown land might make special application under the above notice for the survey of boundaries, both will virtually be interested in it; both must be held to participate in the advantage, and therefore both ought to share in the expense, whatever that may be.

3. I take it for granted, that in defining the conditions upon which the survey of runs should be effected by the Government it was not contemplated that a larger rate should be imposed for the performance of the service than would be fully sufficient to meet expenditure connected with such surveys, directly and indirectly.

The main point in seeking to secure such bonâ fide survey of the limits of runs as is contemplated is doubtless to provide such evidence as to the detail of boundaries as may be consistent with legal form, and, if needs be, held conclusive in a court of law.

The question then follows: What is the precise character of the evidence which would be held conclusive, and what is the lowest rate at which it can be secured?

4. Where the natural features of the country, such as the course of rivers or well-defined ranges, furnishing a clear and undoubted water-shed, are already determined by actual survey, and form the divisional boundaries of adjacent runs, it might be supposed that little other evidence or description than that which would be afforded by reference to the official charts, &c. would be deemed requisite, and consequently no distinct independent survey of such portions of the boundaries of adjacent runs may be called for or considered necessary.

5. Further, in cases—and there are many such in this district—where boundaries have actually been marked on the ground, with the concurrence of adjacent settlers, no dispute or reason for dispute existing, and in yet other instances in which detailed surveys have actually been made, before or since the publication of the Orders in Council, by competent surveyors, at the cost of the individual settler, or jointly by neighbours, it appears to me that it would neither be necessary nor just for Government to assume that such boundary lines were undetermined or unsurveyed, and charge the full price of a further official survey upon the settler.

6. The price fixed by the notice of 28th July last for the survey, viz., two pounds for each linear mile, even if the charge is divided between the respective parties who possess a common boundary, is, I think, with reason, looked upon in Port Phillip as far to high.

Many runs have been surveyed by surveyors whose competency is considered undeniable at a comparatively trifling cost.

7. I enclose copy of a letter which I have received from a settler in the Wimmera district, the perusal of which will at once bring under his Excellency's notice a case where the imposition of the proposed charge per mile might be considered undeniably oppressive.

8. It will nevertheless be understood that in neither this instance nor in any other could I recommend the unhesitating admission of the surveys executed at private cost. Though many runs in this district may have been well and satisfactorily surveyed by competent surveyors, it is known that in certain instances the surveyors, however professionally competent, have not used the chain, but only paced, or, it may be, timed the distances.

Other surveyors have been employed by the settlers, in the accuracy of whose work little or no confidence whatever could be placed.

9. Whatever may be the character of the private survey, it is manifest that in the case just brought under particular notice even its correctness must be verified by Government before it be admitted, and a certain degree of expense must be incurred in effecting this verification, in connecting any such survey with the general survey of the district, in mapping, and in the performance of other subordinate duties of the department.

10. After very attentive consideration of the subject, I venture to make the following suggestions :—

That the survey of the boundaries of runs be considered as a measure which must be generally carried out by Government as soon as circumstances permit.

Concurring with the surveyor in charge in the opinion that on the average twenty shillings per lineal mile will, under all the circumstances, be an ample charge to meet the expense of the Government survey of the boundaries of runs, I should propose that this charge be substituted for that laid down in the notice of the 28th of July last.

In cases where the survey of boundaries affect one individual only it would follow that he must be charged with the whole expense ; but when boundaries are common between neighbours, the expense would be divided between them

Referring, however, to the case of persons who have already gone to certain expense, and have effected full and careful survey of the boundaries of their runs, which may be verified as correct in all particulars by the Government surveyors, and officially adopted, I should submit the propriety of allowing the settler the bonâ fide expenses incurred in effecting such survey, by deducting the sum, whatever it may be, from the Government charge.

If the expense in question has been jointly incurred by neighbours, a proportionate deduction would be made in the case of each. Thus, if A. and B. be neighbours, and the lineal measurement of any common boundary forty miles, for the Government survey of which each would be required to pay under this arrangement twenty pounds, were it shown that the private survey, verified and adopted by Government, had cost them jointly twenty pounds, the sum to be paid to Government for survey would be ten pounds each instead of twenty pounds.

If A. alone has been at the expense of the survey, the deduction (twenty pounds) would be made in his case only, and B. would pay his full proportion of the charge, twenty pounds.

This rule, I repeat, however, would only apply to cases in which the private surveys effected were of a character to admit of their being at once, after proper examination, unhesitatingly admitted. Cases in which neither the plans nor the determination of points on the ground were held satisfactory ought to be set aside without scruple, and no claim whatsoever to reduction of charge allowed.

11. In conclusion, I take leave to observe, that with regard to the time of effecting the general survey of the boundaries of runs, it appears to me that it can scarcely be fully undertaken or performed before the question of disputed boundaries between various settlers has been finally decided upon.

I have, &c.

The Hon. the Colonial Secretary, Sydney. (Signed) C. J. Latrobe.

To his Excellency Sir Charles Augustus FitzRoy, Knight Commander of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c. &c.;

And to the Honourable the Executive Council :

The Memorial of the undersigned licensed Occupants of Crown lands beyond the settled districts in the Portland Bay district,

Respectfully showeth,—

1st. That your memorialists have witnessed with exceeding surprise, and not without proportionable alarm, the promulgation of a Government notice dated the 25th of July last, which calls upon all the occupants of Crown lands beyond the settled districts to pay a sum of two pounds sterling per lineal mile for the admeasurement of their runs, as a necessary and antecedent condition to the issue of their leases.

2d. While your memorialists do not dispute the propriety of the suggestion conveyed by Earl Grey in his Despatch dated 27th February 1848, "that the expense of such surveys must be defrayed by the settlers themselves," they at the same time respectfully observe, that the same authority has assumed it for granted that such surveys form "an object rather of importance to the holders of these runs than to the public" at large, "that they may be accomplished at a very moderate expense," and, lastly, "that the boundaries are already defined with sufficient exactness for practical purposes." In confirmation of the opinion thus expressed by Earl Grey as to the facility and comparative inexpense of an adequate survey for the purpose of defining such boundaries, your memo-

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rialists are able to state with confidence that a very large proportion of the runs in the Port Phillip district have already been surveyed by actual chain measurement, by competent professional surveyors, at an average cost of not more than seven shillings per mile, which surveys, so far as they are undisputed by the conterminous proprietors, might, in the opinion of your memorialists, be made available by affidavit for the objects now contemplated.

3d. From returns presented to the Legislative Council by Colonel Barney, Chief Commissioner of Crown Lands, dated 22d May 1849, your memorialists respectfully solicit the attention of the Governor and Council to the following facts:—1st. That the quantity of land situated beyond the settled districts of Port Phillip, and held under licence from the Crown at the date of the above return, was 29,464,240 acres. 2d. That the actual number of licences issued for the occupation of this country was 827. 3d. That the average number of acres in each run was 35,627, or 55⅝ square miles. Supposing each station to form a geometrical square (an hypothesis too favourable to the settler), the lineal measurement of each run would then amount to 29·85 miles. The result on this hypothesis may therefore be represented as follows:—

No. of licences.		Average girth.		Per mile.	
827	×	29·85	×	£2	= £49,371 10*s.* sterling.

But in the opinion of your memorialists a sum of 10,000*l.* must be added to the above computation, in consideration of the irregularity of the boundaries of runs, which have been computed to be equal to about twenty per cent. increase on their quadratic lineal measurement. Nor has it escaped the attention of your memorialists that such boundaries (with few exceptions) are conterminous with each other. The expense, therefore, of survey will virtually amount to four pounds per lineal mile, thus exacting from the settlers in the intermediate districts a very heavy charge for the survey of lands, which, under the existing regulations, may be brought to sale at the expiry of any year during the currency of their leases.

4th. Your memorialists also call attention to the fact that the revenue during the past year arising from licences to depasture stock on Crown lands within the district of Port Phillip amounted to 18,452*l.* 10*s.*, and from the assessment on stock during the same period to 10,385*l.* 3*s.* 4*d.*, making a total of 28,837*l.* 13*s.* 4*d.*, an amount equivalent to one third of the entire revenues of the district derivable from all other sources. By the imposition of a survey rate, in terms of the public notice of 28th July, this tax on the productive capital of the country will be nearly trebled.

5th. The impolicy of this measure appears to your memorialists in no respect less conspicuous than its injustice, causing, as it would, the withdrawal of the above-mentioned large sum of 60,000*l.* from its present legitimate and productive employment, to be expended on unproductive, and, for the present purposes, unnecessarily expensive service. The last few years have presented an unparalleled amount of commercial distress in all parts of the world; but by no class has this pressure been more severely felt than by the flock-master of Australia. Many have succumbed to the pressure, and many more continue to feel it. In confirmation of which it is only necessary to mention, that during the year 1848 the preferable liens on wool and mortgages on live stock registered in the Supreme Court of Port Phillip amounted to 192,340*l.* 18*s.* sterling (over and above existing mortgages).

6th. Nor, in the opinion of your memorialists, is the legality of so sweeping and comprehensive a tax justfiable on any constitutional gronuds. In conformity with the maxims and usages of the mother country, the power of taxation, which is there indefeasibly vested in the Commons, is by our Constitutional Act vested in the Legislative Council. Under whatever pretence, therefore, of exercising the just rights of the Crown, and under whatever limitation as to extent this power may be exerted by the Executive of the colony, "the sale and appropriation of lands belonging to the Crown, or with the revenue "thence arising," only excepted, it must be deemed to be an infraction of the inalienable privileges of the Legislature. To your memorialists it appears in no degree doubtful that the power which has been assumed and exercised by the Executive, in levying so enormous a tax on a single section of the community, is unwarranted by any usage or precedent under the British Crown.

7th. With reference to the restrictions placed on the subdivision of runs, as contained in the Government notice of 28th July last, your memorialists respectfully submit that the tendency of such restrictions will be to prevent the beneficial occupation of the country, and, by limiting the establishment of new farms, to retard the full development of the resources of which the colony is susceptible; and they are convinced that it will be more prudent to leave such divisions to the unfettered judgment of individuals, whose experience as to the capabilities of their runs may be safely trusted to suggest the most advantageous course to be pursued, subject to the existing regulation which limits the subdivision of runs to a quantity not less than sufficient for the depasturing of 4,000 sheep, or their equivalent in cattle.

8th. For these reasons, therefore, no less than for those of justice and policy, your memorialists most respectfully but earnestly solicit a reconsideration of the subject, that neither the productive capital of the country may be abstracted from its legitimate employment, to the injury of every description of interest, nor the graciousness of Her Majesty's intentions in conferring leases on the settlers may be virtually intercepted by an act of oppressive authority.

And your memorialists will ever pray.

Here follow 55 signatures.

ENCLOSURE No. 2. referred to.

To his Excellency Sir CHARLES AUGUSTUS FITZROY Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General of New South Wales and its Dependencies.

The Memorial of Holders of Land under Leases from the Crown in the District of Port Phillip and Colony of New South Wales,

HUMBLY SHOWETH,—

THAT your memorialists have read with surprise and alarm the Government notice dated the 28th day of July 1849, in which it is ordered that the squatters are to be charged for the survey of the boundaries of their runs previous to the issue of their leases.

That they have already complied with the directions of the Government by sending in descriptions of their runs, most of which have been proved to be correct, by the fact of no caveats having been lodged against them; that most of these have been made with great accuracy, as an actual survey was in many cases gone to, the services of surveyors, both before and since, in the Government survey office, having been obtained at considerable expense, whose plans must be as accurate as any that can be had.

Your memorialists would further urge, that in all cases where boundaries have been agreed upon by the adjoining squatters, or settled by a competent authority, a lease, good to all intents and purposes, might be issued without any survey at all, and that if any doubt should hereafter arise as to its effects, the injury would be incurred by the squatters who had sent in inaccurate descriptions, and could in no way affect the right of the Crown.

That if the Executive cannot coincide in the foregoing view, your memorialists would strongly urge upon its consideration that the charge of two pounds per mile of lineal measure is exorbitant, as they are aware that many surveyors, several of whom have been in Government employment, are willing to undertake such survey by contract at a much lower rate, certainly not exceeding ten shillings per mile, and they are well assured that the whole of the runs in Port Phillip could easily be surveyed and mapped at that rate.

That should this excessive charge be persisted in, the result will be to raise the sum of at least 50,000*l.* from the squatters of Port Phillip, over and above the actual cost of the survey, an impost oppressive at all times, and in the present depressed state of colonial prosperity most ruinous.

Your memorialists, therefore, pray that your Excellency would take the premises into your consideration, and adopt such measures for the alteration of the notice in the Government Gazette dated 28th July as to your Excellency may seem fit.

In name and by appointment of the meeting,

(Signed) WILLIAM M. BELL,
Chairman.

(Endorsed)
Memorial of Holders of Crown Lands under Licence,
in public meeting assembled, September 10, 1849.
To his Excellency the Governor.

No. 3.

W. FIREBRACE Esq. to the SUPERINTENDENT of PORT PHILLIP.

SIR, Melbourne, 21st August 1849.

REFERRING to the Government regulations dated 28th July 1849, lately published, I beg to state that, previous to sending in a description of my run on the River Wimmera, on applying for my lease, I had it surveyed by a practical man, and one known to the surveyor in charge here. Every inch of it was chained, and where distant objects were required for ulterior purposes, their true position was ascertained by cross bearings.

After the run was surveyed by Mr. Howe, it was submitted to the inspection of adjoining licensees, all of whom signed their lines on the chart, thereby showing that they were satisfied of the correctness of their boundaries. The chart was then handed to Mr. Wright, the Crown Land Commissioner, who compared it with the different agreements entered into between adjoining licensees and myself, and being satisfied of the correctness of the document, signed it himself. I then gave him a copy, which he has filed in his office.

Mr. Howe, after finishing the survey of my run, was taken into the survey department as a field surveyor, and died in Government employment.

Having taken every precaution, both for my own sake as well as that Government should not be wronged out of any of its just rights, I cannot but think it hard, and do respectfully protest against being put to any further expense for surveying it. I paid Mr. Howe 25*l.* for surveying and marking not only the outer boundary lines, but the entire interior of the run, showing every creek, swamp, out-station, and road, and by the present regulations I am called upon to pay upwards of 100*l.* to mark merely the outer boundaries, and which any surveyor, having other and adjacent boundaries to mark, would do for from 12*l.* to 15*l.*

The original plan of my run, signed as I have already stated, I beg to forward for your honour's inspection, and further to state that no settler or any other person has

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filed a caveat against me, nor have I against any one;—a pretty convincing proof of th correctness of the chart of my run.

I have, &c.

The Superintendent of Port Phillip. (Signed) WILL. FIREBRACE.

Appendix G. 3.

APPENDIX G 3.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

THE SUPERINTENDENT OF PORT PHILLIP to the COLONIAL SECRETARY, forwarding Petition from the Settlers in the Murray District.

49/218. Superintendent's Office, Melbourne, November 7, 1849.

SIR,

REFERRING to my letters to you, dated 20th August, No. 49/165, and 17th October, No. 49/202, transmitting certain memorials, &c. with reference to the notice of 21st November last, publishing the regulations which it was intended to bring into operation respecting the division and measurement of runs, I beg leave to transmit, and to request that you will bring under his Excellency's notice, the enclosed memorial of the settlers of the Murray district, adopted at a general meeting held at Benalla on the 27th September last.

I have, &c.
(Signed) C. J. LATROBE.

Enclosure.

Enclosure referred to.

HIS EXCELLENCY THE Governor of New South Wales.

YOUR EXCELLENCY,

THE memorial of the settlers of the Murray district, Port Phillip, at a general meeting held at Benalla on the 27th September 1849, respectfully showeth—

That your memorialists, understanding by notice of the Government Gazette of 28th July 1849, that it is the intention of the Government to survey the boundary lines of runs at a cost to the settlers of 2*l.* for every lineal mile, beg most humbly to remonstrate against so oppressive a charge, and respectfully solicit your Excellency's attention to the following resolutions adopted by the meeting:

First resolution.—That it is the opinion of this meeting, that the proposed charge of 2*l.* a lineal mile by the Government for measuring the boundary lines of runs is exorbitant and uncalled for.

Second resolution.—That in the opinion of this meeting a system of authorized surveying similar to that adopted in Van Diemen's Land would be most desirable, and likely to meet the requirements of the public and the Government, in reference to the issue of leases of Crown lands:—

1st. Because under such a system the settler could arrange the price which he would be required to give for the survey of his run; and,

2d. Because much of the expense already incurred by the Government in surveys would in the event of the adoption of such measures be rendered available for the purpose of preparing the leases.

Third resolution.—That in the event of the Government considering it inexpedient to adopt the system of Van Diemen's Land, as recommended in the previous motion, and conducting the surveys for the purpose of preparing leases by salaried officers of the survey staff, this meeting is then of opinion that a fixed rate of 10*s.* for all previously unmeasured lines is the maximum that should be charged, it being understood that one measured boundary line dividing the runs of two settlers be considered sufficient for both.

I have, &c.

Benalla, 29th October 1849. (Signed) WM. CHAYNE, Chairman,

The Hon. the Colonial Secretary.

Appendix G. 4.

APPENDIX G 4.

To PROCEEDINGS of the EXECUTIVE COUNCIL relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

TO HIS EXCELLENCY SIR CHARLES AUGUSTUS FITZROY Knight, Captain-General and Governor-in-Chief of the Colony of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c. &c.

We, Her Majestys's most dutiful and loyal subjects, squatters of New South Wales beg respectfully to represent to your Excellency the unjust and oppressive

tendency of the order dated 25th July last, respecting the surveying and subdividing of squattages.

1st. Because the squatters believed, when they accepted the offer of leases of their runs, that such leases were to be granted on the terms and conditions contained in Her Majesty's Order in Council; and the imposition now of a new condition which will operate to the disadvantage of the squatter to the amount of thirty to forty per cent. at least on a fairly estimated rental will at once annihilate the privileges intended to be conferred on him. Such a condition was not expected by the squatter when he accepted the offer of lease, and it must have been understood at the time by the Government that he could not have so expected it; therefore the condition ought not equitably to form any part of the contract, unless the squatter shall be recompensed to a similar amount in some other way.

2d. Because, even if such a survey as that contemplated by the order above were actually necessary for the purposes of the squatter's lease, the expenses of it ought in fairness to be charged to the Crown revenue. The survey department is altogether maintained from this source, and by the last revenue return it appears that out of 43,000*l.* the squatters contributed 25,000*l.*, yet if any work be required from that department for the benefit of the squatters they are to be specially taxed for it. Besides, the intent and meaning of the 2d section of 9th and 10th Victoria, chap. 104., and the 18th section of 5th and 6th Victoria, chap. 36., fully bear out the assertion that the cost of surveying the boundaries of runs, if requisite at all, should be defrayed from the Crown revenue.

3d. Because, when boundaries of runs are marked by well-defined watercourses and dividing ranges which can be easily described and identified, a survey of them for the purposes of a lease are altogether a work of supererogation, inasmuch as it cannot make them more precise than they really are; in fact it must necessarily be much less so, for the most accurate measurement of such boundaries can only be an approximation to the truth; whereas a creek or a dividing range, described as it really exists, will be unerrable.

4th. Because any order for the survey of runs, based on the principle of that of 28th July, will bear unequally on the squatters themselves. On a level country, where runs are all available and bounded by straight lines, the cost of survey would be trifling, compared with that of the more worthless runs, which are available only in patches, and the tortuous boundaries of which will be doubled or trebled in proportion to the superficial extent of such runs. It would also press more heavily upon the small squatter; for every chain applied to a large run will include more space than if applied to a small one, just in proportion to the size of the run.

5th. Because the charge of two pounds per lineal mile is exorbitant. In many instances, where requisite, runs have been already surveyed at a rate less than one fourth of this amount; and were the work to be performed by contract competent surveyors would undertake it at this rate. It will be, moreover, unjust to those who have been at the expense of a survey already, to compel them to submit to the additional and unnecessary cost of another.

6th. Because the squatters, unenfranchised, have been peculiarly taxed to a greater extent already than is consistent with their means, or with the amount of special consideration accorded to them; and they trust, therefore, that your Excellency will not in the present circumstances of the colony unnecessarily impose heavier burdens on this industrious and important class. The pastoral interest of the colony is the main stay of its prosperity. If the production of our staple commodity be retarded, every other class will suffer; and as it is notorious that the squatters are at this time barely able to meet the ordinary demands on their resources, any sacrifices to which they may be forced by severer exactions will operate deleteriously on the community at large

Here follow twenty-five signatures.

Appendix H.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

The Honourable the Attorney-General and the Solicitor-General to the Honourable the Colonial Secretary, reporting on Letter of Mr. James Garland, respecting Survey of Runs of Crown Lands.

Attorney-General's Office, Sydney,
18th December 1849.

Sir,

We have the honour to acknowledge the receipt of your letter of the 11th instant No. 49/996, transmitting the accompanying letter from Mr. Garland, and memorial from occupants of Crown lands in the Murrumbidgee district, and stating that you have been instructed by his Excellency the Governor, under the advice of the Executive Council, to request our report on the following question raised therein, viz.:

NEW SOUTH WALES.

The applicants claim, under clause 2. of the Act of Parliament 9 and 10 Victoria, cap. 104., and clause 18 of the Act 5 and 6 Victoria, cap. 36., to have the boundaries of their runs measured at the public expense, and charged to the territorial revenue, and our opinion is therefore requested whether this claim is supported by law.

1. In reply we beg leave to remark, that the question raised by the accompanying letter and memorial is not exactly such as your letter assumes it to be. The applicants do not "claim to have the boundaries of their runs measured at the public expense," but rather insist that they have no occasion whatever for the proposed measurement. Their claim is simply, that if the Government think proper to have an accurate survey of each run, the expenses shall not be cast upon the lessees individually, and they submit that the Act of 9 and 10 Victoria, cap. 104., has made those expenses chargeable upon the land rent fund. The question shapes itself accordingly, and we think the point actually in contest depends too much upon whether the surveys are required by the lessees, or only for the purposes of the Crown, to permit of the above distinction being overlooked.

2. We are of opinion that the claim is supported in law. This conclusion is founded, not upon any general rule in law, but upon our opinion as to what description is legally necessary for the purposes of the lessees of runs, and upon our construction of the Act of Parliament, the Order in Council, and Earl Grey's Despatch of 27th February 1848.

3. We think the leases will be valid and sufficient in all respects for the purposes of the lessees if the runs be described in the manner pointed out in our letter of 28th August 1847 We had been asked, "What degree of accuracy in the description of the boundaries "of runs will be sufficient to satisfy that principle of law which requires certainty of "definition in grants and other conveyances from the Crown?" Our reply was, "Although "we have not yet been able to concur in our views upon the second question put by you "as an abstract proposition of law, we are agreed in thinking that for the purpose of the "applications for leases of waste lands of the Crown beyond the settled districts, and still "more so for the purpose of the lessees themselves, there ought to be such an accuracy of "description, by reference to leading geographical features and marked or determined "boundary lines, as would enable a competent surveyor to distinguish the particular "lands from all others, and inform the Government of the estimated extent and capa-"bility of the respective runs demanded and leased."

On the 8th of October now last, the then law officers gave it as their opinion that a certain mode of description then proposed to the Government by Messrs. Dobie and Marsh would be sufficient, and it will be seen that the proposal thus adopted was for a description in accordance with that which we had required to be given in the applications for leases. Our want of concurrence in August 1847 was upon the question whether a *less* explicit description might not be sufficient on abstract principles of law. We had, even then, no doubt that what we proposed for the application, and which had reference to the right of the Crown to expect distinct information rather than to the interest of the lessee, would be certain enough for the lease. If runs be described as we then required, the lessee can at any time, if a dispute should arise, prove his boundary by a comparison of the land itself with that description, and he could do no more if the boundaries had been defined scientifically. Indeed such description would be better for all practical purposes, because the necessary proof might be given by an intelligent person; whereas if the run were defined by bearings, &c., scientific evidence would in general be indispensable.

4. We do not see that a survey is so imperatively *necessary* for the purposes of the Crown as to raise an implication that it must have been intended to be a condition precedent to the granting of the leases. If it were so, we should upon general principles have been disposed to say that the parties claiming the benefit of Her Majesty's Order in Council would have been bound to pay the expense of an authentic survey.

5. It appears to us that the Imperial Parliament has authorized the payment of these expenses out of the rent fund; and we are inclined to think that, in the absence of "any law or ordinance enacted by the local Legislature making other provision for paying the same," it is even incumbent on the Government so to pay them. The second section of the Act directs that the rents "shall be applied in such and the same manner" as the sums produced by the sale of lands effected under 5 and 6 Vict. c. 36.; and it is clear that under the latter Act the expenses of surveying lands for sale are not only chargeable, but charged, upon the land fund, and could not legally be demanded from purchasers. If the local Government were to issue a general notice, imposing such charges upon the purchasers of Crown lands, the effect would be to increase the minimum price of these lands to an uncertain extent, because in every instance a sum of varying amount would be payable above that price. This would clearly be beyond the powers of the Government. With respect to particular lands, it would be competent to the Governor to add to the upset price the previously ascertained cost of survey; but even in that case the whole price would go to the credit of the land fund, and the survey would be charged against it independently. Then is there any such distinction between sales and leases as could properly raise an inference that the Legislature intended to establish an opposite rule in respect of the latter? We think not. The distinction, on the contrary, is this,—that to a purchaser the survey and scientific description are more important, because of the greater comparative value and more permanent and transferable character of his estate; whilst to the lessee, the greater extent of land necessarily occupied by him "for pastoral purposes only" would make the expense of survey burdensome in an inverse ratio to the

value of his interest. It may be that the Legislature had not in contemplation the expenses of any survey at all for the purposes of temporary and pastoral purposes only; but this would be a reason for foregoing the surveys themselves rather than a ground for charging the lessees with the expense.

6. We have also attentively considered the Order in Council, and find in it nothing to indicate that actual surveys were in contemplation. On the contrary, it is rather to be inferred, from the total silence of the order as to surveys, and from the provisions in sections 2 and 3 of cap. ii. 1., that as the rent is to be in proportion to the grazing capability, and not to the area, so the estimation of such capability by valuers is to take the place of a survey.

7. The Despatch of the Secretary of State of 27th February 1848 does not contemplate the necessity of the proposed surveys, either for the purposes of the Crown or of the lessees, and certainly favours the claim of the latter not to be charged with expenses which are not considered by themselves, and are not, in point of law, "necessary for the security of their property in their runs during the term of their leases.

8. There seems to be no necessity that the surveys (if required at all) should precede the issue of the leases. The object of the Government in requiring them we presume to be, that it may be informed by charts of the extent to which the territory is occupied under lease, and of the manner in which it has been distributed or parcelled out. Upon this assumption, and being of opinion that the leases will be valid without a survey, and that the application (either original or as amended by the Boundary Commissioners) would *necessarily* be the text to which the surveyors would be kept, we think the surveys might proceed independently of the issue of the leases; although we can understand that in some respects it might be desirable that they should precede such issue.

9. The general opinion we have expressed is intended to apply only to cases in which applications have been correctly made, in accordance with the Government notice of 7th October 1847.

There will probably be found many applications containing descriptions so imperfect as to render a survey necessary to enable the Government to issue valid leases; and there may be other grounds of exception to the general rule, and in which surveys may not only be necessary, but ought to be conducted at the expense of the intended lessee.

We have, &c.

(Signed) J. H. Plunkett, Attorney-General.
W. M. Manning, Solicitor-General.

The Hon. the Colonial Secretary.

Appendix. I.

To Proceedings of the Executive Council relative to the Measures requisite to obtain legally valid Descriptions of the Boundaries of Runs for Insertion in the Leases about to be issued under Her Majesty's Order in Council of 9th March 1847.

Colonial Secretary's Office, Sydney, 1st January 1850.

Crown Lands beyond the Settled Districts.

Measurement of the Boundaries of Runs.

With reference to the notice issued on the 28th July 1849, his Excellency the Governor, with the advice of the Executive Council, has been pleased to direct the issue of the following further notice respecting the surveys of the boundaries of runs, for the purposes of the leases claimed under Her Majesty's Order in Council of the 9th March 1847.

1. The Surveyor-General having reported that the price of 2*l.* per linear mile is now found to be much higher than is required to cover the expense of the measurement of the boundaries of runs, the price is hereby reduced to 10*s.* per linear mile, which will be charged in all cases in which it may be necessary to have recourse to measurement in order to render the descriptions of the boundaries sufficiently complete to satisfy the rule of law which holds any grant or other conveyance from the Crown to be absolutely null and void if the property intended to be conveyed be not described with certainty.

2. A formal survey will not be required by the Government in any case in which the claimant of a lease shall have furnished, under the notice of the 7th October 1847, such a description of the boundaries of his run as will satisfy the requirements of the law above referred to, or will admit of being rendered sufficiently perfect for that purpose by explanation afforded on the spot to the Commissioner of Crown Lands, or other person employed by him to estimate the extent and grazing capabilities of the run.

3. Where no survey is made there will of course be no charge; but any person who may have furnished a description sufficiently perfect to enable the Government to dispense with a survey, but who may nevertheless be desirous, for the sake of his own greater security, to obtain a technical description in his lease, can have the boundaries of his run measured at the above stated rate of 10*s.* per linear mile.

4. The charge for measurements performed by the surveyors employed under the direction of the Commissioners for the settlement of disputed boundaries will be the same as that fixed by this notice for other measurements, viz.:—Ten shillings per lineal mile; but

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where the descriptions furnished by the applicants are deemed sufficient for the lease, it will not be necessary that a measured survey should be made of any portion of the boundary excepting that which is immediately the subject of dispute.

5. Wherever the boundaries of a run are coincident with those of a reserve, or with any lines which have been surveyed by the Government for a public purpose, no charge on account of their measurement will be made to the lessee.

6. In reference to a misapprehension which appears to have been entertained respecting the meaning of the notice of the 28th July 1849, in this particular, it is hereby explained that the Government does not intend to take a double payment for the same survey, and that, therefore, where the boundaries of two runs requiring measurement are coincident, the expense of the measurement will be divided equally between the two parties, each being charged one half of the fixed rate of ten shillings per mile.

By his Excellency's command,
E. Deas Thomson.

No. 2.

No. 2.

Copy of a DESPATCH from Governor-General Sir C.A. FitzRoy to Earl Grey.

(No. 67.) Government House, Sydney, April 10, 1850.

(Received September 9, 1850.)

My Lord, (Answered, No. 168, 9th November 1850, page 69.)

I do myself the honour to acknowledge the receipt of your Lordship's Despatch of the 6th August 1849*, transmitting an Order of Her Majesty in Council authorizing the transfer of leases granted under the Order of the 9th March 1847, and empowering me to insert in the leases such conditions as may seem to me to be requisite "for securing the peaceable and effectual occupation of the lands comprised in such leases, and for preventing the abuses and inconveniences incident thereto."

29 January 1850.

2. In accordance with the recommendation contained in the enclosed Minute of my Executive Council, I have published the Order in the "Government Gazette" of this colony, so that I may be able to act upon it as soon as I shall be informed that six months have elapsed from the date of its being laid before Parliament, as required by the 6th section of the Act of Parliament 9 & 10 Vict. c. 104. I have also referred the Order, and the papers on which it was recommended, to the Attorney and Solicitor-General, so that they may prepare and submit the additional conditions which they may consider necessary to insert in the form of leases in order to meet the object in view.

† Page .

3. By my Despatch† No. 68, of the 11th instant, your Lordship will be informed that I have as yet issued no leases, and that a considerable time is still likely to elapse before I shall be supplied with the descriptions requisite to enable me do so.

I have, &c.

The Right Hon. Earl Grey, (Signed) C. A. FITZROY.
&c. &c. &c.

Enclosure in No. 2.

Proceedings of the Executive Council relative to the Order in Council conferring upon the Governor the Power to insert Conditions in the Leases of Crown Lands beyond the Settled Districts, to be issued under the Order of 9th March 1847, and declaring such Leases to be transferable.

Extract from Minute, No. 50/4, *dated* 29th *January* 1850.

Members present:—
His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

With reference to the proceedings on the 5th September 1848 and on the 31st October 1848, his Excellency the Governor lays before the Council a Despatch from the Secretary of State, transmitting an Order in Council conferring upon the Governor such powers as will enable him to insert in the leases of runs the conditions requisite to secure to the aborigines and others the right of wandering over the unimproved portions of the lands demised, and declaring that the leases shall be transferable.

2. The Council advise that this Despatch, and the recommendations of the Governor and of this Council in which the Order in question originated, should be communicated to the

* Page 83 of Papers on the "Occupation of Crown Lands," presented to Parliament by Her Majesty's Command, 14th August 1850.

Crown law officers, in order that the requisite conditions may be inserted in the form of lease which, in pursuance of the advice given by the Council on the 2d August 1847, they ave been instructed to prepare. The Council further recommend that the forms of leases should now be submitted for approval with as little delay as possible.

The Council advise that Her Majesty's Order in Council should be proclaimed by the Governor, but without any comment, so that it may have effect in the colony so soon as six months shall have elapsed from the date of its being laid before Parliament, in accordance with the provision of the 6th section of the Act 9 and 10 Victoria, chapter 104.

(Signed) FRANCIS L. S. MEREWETHER,
Clerk of the Council.

No. 3.

COPY of a DESPATCH from Governor-General Sir C.A. FITZROY to Earl GREY.

(No. 68.) Government House, Sydney, April 11, 1850.

(Received September 9, 1850.)

MY LORD, (Answered, No. 168, 9th November 1850, page 69.)

WITH reference to my Despatches of the 9th* and 10th* instant, Nos. 66 and 67, informing your Lordship of the measures which, with the advice of my Executive Council, I had adopted with respect to the survey of the boundaries of runs to be leased under Her Majesty's Order in Council of the 9th March 1847, and also those adopted by me upon the receipt of your Lordship's Despatch of the 6th August 1849, No. 134, transmitting to me Her Majesty's Order in Council authorizing the insertion of conditions in the leases to be issued under the Order in Council of the 9th March 1847, I have now the honour to transmit, for your Lordship's further information the copy, of a report from the Surveyor-General, dated 22d January last, showing the progress that up to that date had been made in this survey.

* Pages 1 & 30.

2. Without troubling your Lordship with any remarks upon that part of the Surveyor-General's report which relates to the mode of carrying on the duty entrusted to the officers of his department, I consider it necessary to call your Lordship's attention to the tenth paragraph of that report, wherein it is asserted that "all that is required for the issue of the leases would have been accomplished within the estimated time had not the Act of Council for the adjustment of the boundaries of disputed runs drawn off the surveyors from their assigned duties before the survey of features was complete, or the extent and position of the reserves determined upon and settled," and that "a curious anomaly has thus arisen,—namely, that whilst the surveys under the Surveyor-General's direction of undisputed runs are to await the announcement of the reserves to be excepted from the leases, the leases of the runs in dispute are to issue." Upon this assertion, so broadly stated, I can only observe that it is not correct. It was never intended, so far as I am aware, that the determination of a disputed boundary should interfere in any way with the general instructions issued to the Surveyor-General respecting the reserves to be excepted from leases. No such interference has occurred; and I am at a loss to conceive any motive that can have induced the Surveyor-General so entirely to misconstrue the act in question.

3. I would further observe, that although on the whole a tolerably satisfactory progress has in my opinion been made in the survey, a great deal remains to be done; and it is evident that a very considerable period must yet elapse before it is completed.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c. (Signed) CHARLES A. FITZROY

No. 50/50. Enclosure in No. 3.

The SURVEYOR-GENERAL to the COLONIAL SECRETARY, on the Survey of the Squatting Districts.

SIR, Surveyor-General's Office, Sydney, 22d January 1850.

1. IN compliance with the request conveyed to me in your letter, No. 50/19, dated 14th instant, I have the honour to submit to the Governor a report, for transmission to Her Majesty's Secretary for the Colonies, of the progress that has, up to the present time, been made in the survey now going on in the squatting districts.

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2. Before entering upon any detailed account of what has been effected, it will be necessary to review the circumstances under which these surveys were, about two years ago, commenced.

3. I find, on reference to the correspondence which took place on the subject during my absence in England, that my deputy was instructed to bring forward a specific proposition for the conduct of the survey of the squatting districts; that he did accordingly propose an arrangement which provided for the division of the districts into nine parts, and the appointment of a surveyor to each; that instructions, precisely similar, were issued to each surveyor; and that the instructions, when submitted by letter, No. 48/123, of the 7th March 1848, were approved of by the Governor, as intimated in your letter, No. 48/140, of the 13th March 1848.

6. By these instructions, as it appears to me, it was intended that each of the nine surveyors was to carry on a triangulation of the whole of each district, whilst the chain surveys of runs, and consequently of features, were to be carried on under their directions by contract. How it arose is not very apparent, but, instead of the triangulation, the surveyors gradually fell into the long-established system of the chain survey of features, which experience had suggested as the method of surveying best calculated to meet the peculiar requirements of this country, and which I was therefore willing that the surveyors should continue, although somewhat at variance with the approved instructions issued by my deputy, as above alluded to, because I was aware that no accurate triangulation in detail could be continued in this thickly-wooded country, without clearing the hills, a work of great labour; and that, after all, a mere sketch of the features of the country would be produced, and not even that within any reasonable time, as has been clearly established by the fact that one of the surveyors who confined his labours to triangulation alone has only produced a sketch of a very small portion of his district. I foresaw, moreover, on my return, that the survey of features by contract, to the extent required by the approved arrangement, was neither likely nor possible, and that, sooner or later, the use of the chain must have been again resorted to.

5. The object to be accomplished by the nine surveyors, each having been made responsible for the survey of the district or districts allotted to him, and some of them having one or more assistants, whilst others have not any, was the survey of such great features of the country as would enable the surveyors to ascertain the best localities for towns, villages, agriculture, and other purposes, and for the preservation of water, of fords and crossing places, and the general direction of great thoroughfares dependent thereupon. It is obvious that the more modern purpose of granting leases of large tracts rendered the determination of these primary objects more necessary first, and by actual survey, according to the usual routine of my office.

6. Each surveyor has been required to furnish, on a small scale, a map of his district, showing the localities most eligible for such reserves. He is also to furnish descriptions of these localities, for the formal announcement in the Government Gazette, so that any local interests may be brought forward and considered before the measurement of the runs is commenced. When such matters are disposed of, the measurement of the runs, it was contemplated, would not only lead to the issue of the leases, but to the delineation of the minor features, which, with the rivers and mountain chains previously surveyed, would complete a chain survey of the whole of the colony as far as occupied by the graziers, and that sufficient data would be also furnished for the division of the colony into counties, hundreds, and parishes, and, by the aid of some large triangles and latitudes, a general map might also be constructed.

7. Having thus shown what is required to be done, I now proceed to state the progress which has been made in the two years elapsed since the nine surveyors took the field.

1. The Monera and Murrumbidgee districts, commencing in the south. The first district is Monera, which, being already surveyed, was assigned with the Murrumbidgee district to the surveyor in whose hands it previously was. The Murrumbidgee district is very large; on an average four hundred miles long by one hundred broad. The greater portion of the large features of this district have been measured, and the surveyor is almost ready to commence his plan of the whole, having now an assistant. A great portion of this district is desert.
2. The lower Darling district. The general features have been surveyed, the reserves made, and the surveyor is about to commence his plan.
3. The Lachlan district. This district includes a large useless desert tract. The survey of this also is almost complete, and the surveyor about to commence his plan.
4. The Wellington district. Much of this district is also desert, and the surveyor has little now to do before commencing his plan.
5. The Bligh district. In this district, also, there is a large extent of unwatered plain; but the great features have been surveyed, and the surveyor may commence his plan.
6. The Liverpool Plains district This is a very extensive district, containing vast plains. The survey is not so far advanced as that of those previously mentioned.
7. The Gywdir and New England districts. These two districts are under one surveyor, who has made great progress with the survey of the features; but as these are far more numerous than in the more level country to the westward, the survey is not so far advanced as the others, though more advanced than the survey of Liverpool Plains. This surveyor has now an assistant.

8. The M'Leay and Clarence River districts. These districts are very small, but being on the coast side of the dividing range, the features are far more diversified, and the surveyor is not quite ready to commence his plan.

9. The Moreton, Darling Downs, Maranoa, Wide Bay, and Burnett districts. These districts are under one surveyor, who has now two assistants. The features of Moreton are surveyed, but reserves have yet to be considered and selected. Some progress has been made with the features of the Darling Downs and Burnett districts; but the Maranoa, with the exception of the outline determined by my last expedition, has not been touched, nor has any progress whatever been made with the Wide Bay district. It may be observed that the districts of Maranou, Wide Bay, and Burnett have been added since the original arrangement was made.

8. Besides the survey of features and examination of the eligibility of spots for reserves, the sites of many towns have been surveyed, of which a list is annexed, A. Suburban and town allotments, and also agricultural allotments, have been marked out and described for sale.

9. The surveyors in the more remote districts have great difficulties to contend with in procuring provisions, and to all the difficulty of procuring labour has been a very great hindrance.

10. The steady prosecution of these labours would, I am convinced, have accomplished within the estimated time all that is required for the issue of leases of runs accurately described; but the passing of an Act of Council for the adjustment of the boundaries of disputed runs has now led to the drawing off of the surveyors from their assigned duties before the survey of features was complete, or the extent and position of the reserves determined upon and settled; and a curious anomaly has thus arisen, namely, that whilst the surveys under my direction of undisputed runs are to await the announcement of the reserves to be excepted from the leases, the leases of the runs in dispute are to issue.

11. The territory over which the nine surveyors have been spread, none, indeed, of which, except the great rivers explored by me, had been (with the exception of Maranoa and Moreton Bay) surveyed, comprises an extent of about 165,000,000 acres, which is much larger than the surface of the whole kingdom of France.

12. To attempt the leasing for a long period of such an extent of territory without any previous chain survey was likely to prove a very embarrassing and unsatisfactory undertaking; but the nine surveyors, well drilled in the system which I had already established, have steadily pursued the accurate chaining of features, leaving these to be put together eventually by a few accurately determined triangles and carefully observed latitudes, as before alluded to.

13. With a view to introduce system into the survey of the north, when the disputed boundaries shall have been determined there, I have instructed Mr. Surveyor White to extend a net of triangles with my theodolite across the whole country, which is wel known to him. Mr. White is also an accurate observer of latitude, and thus I hope, at least in the northern portion of the colony, to place the surveys on a more satisfactory basis than they have depended on for some time past. The same duty will be assigned to Mr. Surveyor Townsend in the south, by which his former surveys there with the theodolite will become still more extensively useful than they have already been.

14. Thus the labours of the surveyors have been made available towards obtaining an accurate skeleton survey of the great features of this extensive territory, and which I trust to have soon upon paper, if the operations do not meet with further impediments by a too premature attention to the demands of the holders of runs for the measurement thereof.

15. The progress of the surveyors has not been uniform. Some have done more; some less. The average number of miles which a surveyor in this colony employed in feature survey can accomplish in a year is estimated at 500 miles. Some have measured as much as 1,000 miles in the level parts of the interior. The total was 5,895 miles in 1848; for 1849, 4,525 miles; but all the returns for last year have not yet come in. I have the honour to submit an estimate of the superficial extent of each district, B.

16. These statements show what may be accomplished by system,—by a system with which all my surveyors have been long acquainted, and according to which they have most determinately persevered, until by their labours the accurate survey of the great features of a vast extent of territory has been accomplished, and which will be available for ever after as furnishing bases on which details to any degree of minuteness may be worked out, as well as general maps, affording that knowledge of the country without which the division and appropriation of the land for any purpose would not be possible.

I have, &c.

(Signed) T. L. Mitchell.

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Sub-Enclosure 1 in No. 3

A.

Sub-Encl. 1 in No. 3. SCHEDULE of Towns already laid out in the Squatting Districts of New South Wales.

No.	Squatting Districts.	Towns.	No.	Squatting Districts.	Towns.
1.	Monera - -	*Eden. Panbula. Bomballo. Cooma. *Bunyan.	4	Wellington -	Molong. *Nurea.
			5.	Bligh -	Dubbo.
2.	Murrumbidgee -	*Albury. *Gundagui. Deniliquin. Tumat. Wagga Wagga.	6.	Liverpool Plains -	Tamworth.
			7.	Gwydir - -	Warialda
			8.	New England -	Armidale.
3.	Lachlan - -	Bennelong. *Bowning. *Bookham. Murringo.	9.	Clarence - -	Gratton.
			10.	Darling Downs -	Drayton. Warwick.

Note.—The towns marked thus *, although in the squatting districts, were laid out previously to the commencement of the general survey of the squatting districts.

Sub-Encl. 1 in No. 3.

B.

SCHEDULE of Squatting Districts in New South Wales in which Surveys are in progress, showing average Extent of each District.

Surveyor's Districts.	Names of Squatting Districts.	Average Lengths and Breadths of Districts.	Average Areas in Square Miles.	Average Areas in Acres.	Remarks.
		Miles. Miles.			
1.	Monera - -	100 × 90	9,000	5,760,000	
	Murrumbidgee -	300 × 100	30,000	19,200,000	
2.	Lachlan - -	200 × 110	22,000	14,080,000	
3.	Lower Darling -	280 × 180	50,400	32,256,000	
4.	Wellington - -	250 × 100	25,000	16,000,000	
5.	Bligh - -	175 × 75	13,125	8,400,000	
6.	Liverpool Plains -	200 × 90	18,000	11,520,000	
7.	Gwydir - -	130 × 75	9,750	6,240,000	
	New England -	180 × 60	10,800	6,912,000	
8.	M'Leay - -	75 × 50	3,750	2,400,000	
	Clarence - -	115 × 75	14,375	9,200,000	
9.	Moreton - -	100 × 60	6,000	3,840,000	
	Darling Downs -	200 × 100	20,000	12,800,000	
	Maranoa - -	160 × 90	14,400	9,216,000	
	Wide Bay - -	120 × 50	6,000	3,840,000	
	Burnett - -	80 × 60	4,800	3,072,000	
			257,400	164,736,000	

No. 4.

No. 4.

COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY.

No. 89. Government House, Sydney, 6th May 1850.

(Received 9th September 1850.)

MY LORD, (Answered, 14th November 1850, No. 174, page 70.)

I HAVE the honour to transmit a petition addressed to Her Majesty, and signed by a numerous and very respectable body of proprietors of land in this colony upon which quit-rents are reserved, praying that for the reasons therein recited the Crown will either consent to abandon this impost altogether, or leave its adjustment to the local authorities.

2. This petition was placed in my hands by a deputation consisting of Mr. Wentworth, M.C., Mr. Icely, M.C., Mr. Charles Cowper, and Dr. James Mitchell, four gentlemen of great influence and respectability, who, in delivering it, requested that I would support its prayer, and until Her Majesty's pleasure

can be signified stay any proceedings to enforce the payment of the quit-rents complained of.

3. Although the adverse replies that have on more than one occasion been returned to addresses of the Legislative Council, and the peremptory instructions I have received on the same subject, compelled me to inform the deputation that I must decline to accede to the latter part of this request, I feel bound to state my belief in the correctness of the allegations set forth in the petition, to the effect that under the existing regulations for leasing the waste lands of the Crown beyond the settled districts much of the land held by the petitioners under quit-rent has become practically valueless, and in consequence is unoccupied, and that the attempts that have been made by the Government to enforce the payment of these quit-rents by the issue of distress warrants have caused a great deal of hardship among those parties against whom they have been issued; and I cannot therefore doubt that if your Lordship should feel at liberty to recommend to Her Majesty the adoption of either of the alternatives proposed by the petitioners it will give very general satisfaction.

I have, &c.,

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C A. FITZROY.

Enclosure in No. 4.

To the Queen's most Excellent Majesty.

The Petition of the undersigned Inhabitants of the Colony of New South Wales, Humbly showeth,

That Your Majesty's petitioners are the proprietors of lands in the colony of New South Wales upon which certain quit-rents are reserved, and that the amount of such impost is twopence per acre per annum.

That at the period when your petitioners became liable to the charge herein mentioned the only mode in which land could be acquired was by grant from Your Majesty, through Your Majesty's representatives the Governors of this territory, and that all alienations of Crown land were made subject to certain reserved quit-rents.

That since the year 1833 various changes have been made in the mode and terms upon which Your Majesty's demesne lands have been sold and appropriated, and that by the Act 9 & 10 Vict. cap. 36., and the Orders in Council supplementary thereto, the whole of the waste lands of the colony, amounting to above one hundred millions of acres, are permitted to be occupied on lease, for a term not exceeding fourteen years, at a rate not exceeding one sixth of a penny an acre per annum.

That the effect of this competition (apart from any other cause) is practically to render your petitioners' lands utterly valueless, as no one can be found to occupy or improve land (often of an inferior description) burdened with so heavy a quit-rent as twopence per acre, whilst boundless tracks of the most superior soil can be procured at one twelfth of that sum. And your petitioners further show, that the effect of the imposition of so heavy a burden as that herein complained of is, that the lands are unoccupied, and in some instances have been abandoned, while many amongst the class of the older settlers have been subjected to very grievous hardship by the executive authorities having (in obedience to directions to that effect from the Right Hon. the Secretary of State for the Colonies) issued distress warrants for the recovery of the quit-rents herein referred to.

That the Legislative Council of the colony have upon two previous occasions presented humble addresses to Your Majesty and to Your Majesty's Ministers, praying for a reduction of all quit-rents to a uniform standard of two shillings annually the hundred acres, or that the claim of the Crown to quit-rents should be given up altogether.

That Your Majesty's petitioners were the more sanguine of success attending the prayers of the colonists, on the occasion of their being thus preferred through their constitutional representatives, from the fact that Your Majesty's advisers have, in the case of other British colonies, thought fit to recommend Your Majesty to sanction the abandonment of this peculiar tax, or to leave its adjustment to the local authorities. And Your Majesty's petitioners humbly submit, that neither the honour of Your Majesty's Crown, nor the rights or interests of any portion of Your Majesty's subjects, could be considered as compromised or injured by the relinquishment of an impost so burdensome, and productive of such ruinous consequences to so numerous a class of Your Majesty's faithful subjects.

Your Majesty's petitioners therefore beg to lay this their most humble petition at the foot of the throne, in full reliance on the gracious disposition and benignant care of Your Majesty to listen to the prayers and to redress as far as practicable the grievances of all classes of Your Majesty's subjects.

And your petitioners will, as in duty bound, ever pray.

(Signed by Hastings Elwin and other 88 persons.)

NEW SOUTH WALES.

No. 5.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to Earl Grey.

(No. 135.) Government House, Sydney, July 18, 1850.

My Lord, (Received January 4, 1851.)

I have the honour to transmit the reports for 1849 of the officers of this Government employed in the protection or civilization of the aborigines.

2. The observations of some of the Commissioners with respect to the reserves for the use of the aborigines, and to the formation and extension of the corps of native police, having formed the subject of former despatches during the past year, I need not now trouble your Lordship with any further observations.

3. The reports of Messrs. Macdonald, Durbin, O'Connell, and Bidwell will be found interesting, relating as they do to districts lately proclaimed.

4. The proceedings of my Executive Council, having reference to the protection and care of the aborigines, which I forwarded to your Lordship with my Despatch No. 231*, of 12th November 1849, will, I hope, convince your Lordship, that although the native race is diminishing before the advance of Europeans, the measures to be adopted by the local Government for their improvement and welfare have received attentive consideration.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c. (Signed) C. A. FITZROY.

Enclosure in No. 5.

Enclosure in No. 5.

Extracts from Reports of Crown Land Commissioners relative to the Aborigines.

Extract from Mr. Commissioner Bingham's Report on the State of the Aboriginal Natives of the Murrambidgee District, 1850.

"The prostration of spirit of the aboriginal native, consequent on his inability to procure the employment congenial to his mind and of his earlier days when his hunting and fishing grounds were unmolested and undisturbed, and the monotonous routine of a squatter's life he cannot comprehend, but which, however, acts like a powerful spell on the conduct and habits of the aboriginal native of the forest, having now no country he calls his own, and the chief sources of the excitement and happiness of his previous existence having been destroyed, induce me to consider, that should the reserves previously recommended by the Secretary of State be well selected and properly established, and particular attention given to the same by the respective Crown Land Commissioners for their proper protection, it would lead to very beneficial results as to the future prospects of the youthful portion of the several tribes of aboriginal natives, and from my own experience I have invariably found that the heads of tribes refer to the Crown Commissioner as a recognized and authorized protector and adviser."

Mr. Commissioner Macdonald's Report.

Crown Lands Office,
Euston, Lower Darling District,
February 15, 1850.

Sir,

In transmitting my second annual report on the condition of the aboriginal tribes frequenting the district of the Lower Darling, I do myself the honour of acquainting you, that I have divided the subject matter of the report into four separate heads, viz.—

1st. On the population of the tribes.
2d. On food and property in hunting grounds, &c.
3d. On their intercourse with European settlers.
4th. On the prospect of their civilization.

1st. *Population of the Tribes.*

In my former report I estimated the aboriginal population of the district as about 1,000 of all ages and sexes. A more extended intercourse with the tribes has, however, since led me to consider this estimate as incorrect; and on reference to the *return of population* which accompanied the present report, in which the *numbers* of each particular tribe, its aboriginal *designation*, *language*, and *locality*, are given, it will be seen that there is a total of 1,514. This population is divided into eight different tribes, of whom seven frequent the frontages of the rivers Lachlan, Murrumbidgee, Murray, and Darling,

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* Page 59 of Papers relative to "Crown Lands in the Australian Colonies," Part I., presented to Parliament by Her Majesty's Command, 14th August 1850.

and the remaining tribe inhabits the plains and dense dumosa scrub lying between the Darling on the one side, and the Murray, Murrumbidgee, and Lachlan on the other, a country which is as yet entirely unknown to Europeans, and is supposed to be destitute of any permanent water.

These plain or malee blacks (Barreti) are never seen, except for a short period during the extreme heats of summer, when they seem to be driven in from their accustomed hunting grounds to the river through want of water. They are known to extract a colourless liquid as a beverage from the roots of the eucalyptus dumosa, and probably possess springs and sources of supply which are known only to themselves. These natives speak a language similar to that used in the Darling, and have probably therefore been driven back from that river at some former period.

2d. *Food, property in hunting grounds.*

The principal dependence of the river blacks for food is on fish, which during a considerable portion of the year is abundant, varied, and excellent, but about the months of July, August, September, and October, when the waters of the Murrumbidgee and Murray are on the rise, they are unable to procure any fish whatever, and are forced to subsist on roots, herbs, grass seeds, fungi, &c., and the casual and scanty supplies procured at the stations of the settlers; the only *animal* food they appear to procure at any time being a few opossums and some wild fowl, for I have never seen either a *kangaroo* or *emu* in any of their camps. It is during these months of privation, therefore, that the suggestion of the Right Hon. the Secretary of State for the Colonies (vide Despatch, 11th February 1848, to Governor Sir Charles A. FitzRoy, on aboriginal reserves), that "central depôts for the distribution of rations among natives, in the seasons in which they cannot without much privation and extensive wandering procure sustenance for themselves," would, if carried into operation, be of peculiar benefit to the natives of this district. The Malee blacks, however, are said to exist almost entirely on the kangaroo, emu, and opossum, and on a bird named *lova* (the leipoa ocillata of Gould), whose eggs, larger than those of the domestic turkey, are found in great numbers, during the breeding season, in the sand-mounds in which they are deposited and hatched, in the dense dumosa scrub.

De Torqueville, speaking of the American Indians, says, "the property of a hunting nation is ill defined; it is the common property of the tribe, and belongs to no one in particular, so that individual interests are not concerned in the protection of any part of it." The custom, however, appears to be the reverse among the tribes on the Murray, for although a certain tract of country is considered as belonging to the *tribe in general*, still every particular creek, lake, or locality (the boundaries of which are perfectly well understood) is apparently the *inherited* property of a *particular individual*, who is generally the head or elder of a family, and who is succeeded in his property by his eldest son, or brother, or nearest male relative; and it is common to hear the natives remark that the ground on which the settlers have formed their stations belongs to a particular individual, and which they very naturally consider gives the aboriginal proprietor a certain claim on the European occupant.

3d. *Intercourse with European settlers.*

I had occasion in my last annual report to remark, that the annals of the colony had rarely shown the occupation of a new district by the Europeans in which so little hostile feeling had been displayed by the aborigines as in the district of the Lower Darling; and I am gratified to have it again in my power to report, that during the past year no instance of the murder of a *shepherd* or *stockman*, or indeed of any European, has occurred, neither has any material aggression on the *stock* taken place, although cattle have been speared and some sheep stolen at several stations when the opportunity offered, and even this has in general occurred during the months of privation before alluded to, or, when assembled together in numbers at their annual meetings, the natural supply of food was scanty, precarious, or insufficient for their support.

It is now almost the universal practice of the tribes to encamp or make their head-quarters at or near the different stations in the district, and they are occasionally of very great assistance to the settlers, as, for instance, the wool teams on their route to the Melbourne market are obliged to cross the River Murray at this establishment, where the river is from 250 to 300 yards in width, and it is as yet solely with the assistance of the natives and their bark canoes that they are enabled to transport their wool bales, stores, and waggons from one bank of the river to the other. On these occasions it is always my custom to reward the most intrepid and active by the present of a blanket from those allowed by the local Government for annual distribution to the aborigines.

4th. *The prospect of their civilization.*

Although all past experience tends to prove that the final destiny of the aboriginal population is to diminish and disappear before the onward march of European intrusion, yet I cannot agree with a late author ("Westgarth's Australia Felix," p. 123), "that it cannot be desirable to *prolong a race* which has always sunk into circumstances of unhappiness and degradation." On the contrary, I apprehend that it is a paramount duty of the state to use every effort, not only to retard this gradual extermination of a primeval race, but also to alleviate the evils of their existing condition, and to provide for their

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physical and social wants as assiduously as may be in our power. It was the wise remark of Washington, in one of his messages to Congress, "We are more enlightened and more powerful than the *Indian natives;* we are therefore bound in honour to treat them with kindness and even generosity."

In conclusion, I beg to remark, that it will be my anxious endeavour to foster and encourage the friendly feeling at present existing between the two races.

I have, &c.

(Signed) G. J. Macdonald,
Commissioner of Crown Lands.

Mr. Commissioner Durbin's Report.

Sir, Crown Lands Office, Liverpool Plains, December 27, 1849.

In compliance with the request contained in your letter, No. 1279, of the 14th instant I do myself the honour to transmit my report upon the state and prospects of the aborigines in this district, and have at the same time to express my regret that in consequence of my recent appointment to this district this report will be found so incomplete.

For the reasons above stated I have been unable to find out, with anything like accuracy, what the numbers of the different tribes in this district amount to, but imagine many hundreds.

It is, however, with feelings of considerable gratification that I have to report, for the information of his Excellency the Governor, that since my appointment to this district I have received no complaint of the aborigines having committed any aggressions on the persons or property of the white population, and consequently no collision has taken place between the two races.

Having adverted so recently in my letter, No. 43, of the 1st August, to the proposed system of reserves for the improvement of the condition of the aborigines, and in that report ventured to submit a plan for the consideration of Government, how far it would be expedient to remove the youth of one tribe to a depôt in another district formed at such a distance as to prohibit any intercourse with the members of their own tribes and the youth of that district similarly deported, I conceive it unnecessary to dwell any further on the subject, but may add that my views have been fully strengthened on this subject during my short residence in this district. I beg to mention one instance of an aboriginal native in this district having at the present time about fifty head of cattle and some horses his own property, and in receipt of wages to the amount of 18*l.* per annum. I adduce this fact as it is the only instance that has come under my notice of any native holding any property.

I have, &c.

The Chief Commissioner of Crown Lands, Sydney.

(Signed) John H. Durbin,
Commissioner of Crown Lands.

Mr. Commissioner O'Connell's Report.

Sir, Gaynaah, February 18, 1850.

I have the honour to acknowledge the receipt of your circular letter of the 14th December last, calling upon me for my usual annual report on the state of the aborigines in my district, but as the last year was the first of the occupation of the Burnett district, I have as yet had little opportunity of learning any facts worth recording relative to the state of the aboriginal natives inhabiting the portion of country within the bounds of my commission.

I can only at present state that they appear to be very numerous, if possible somewhat lower in the scale of humanity than the natives of other parts, and I fear there is little doubt addicted to cannibalism; but whether this last atrocity is indulged in as a pleasure, or merely observed as a religious rite or superstitious ceremony, I am as yet unable to determine with any degree of certainty. At the same time I have to state in their favour that on several stations they have been found tractable and useful, and in instances under my own observation have continued in the care of sheep in large flocks for several months consecutively. On the other hand, they have committed many outrages upon property, and some white men have been murdered. I state these murders upon the authority of common report, for the only outrage brought under my notice officially was the wounding of a shepherd in the employment of Messrs. Daniel Archer and Co., upon which subject I had the honour to forward a letter to you some time back.

I have, &c.

The Chief Commissioner of Crown Lands.

(Signed) M. C. O'Connell,
Commissioner of Crown Lands.

Mr. Commissioner Bidwell's Report.

This district, the most northerly in New South Wales, is very much occupied by what are locally called scrubs, *i.e.*, jungles or close forests, impassable to horses and large cattle, and useless for pastoral purposes, but affording to the aborigines a greater portion of their food.

The consequence of this great extent of scrub is, that the natives are far more numerous than in any other portion of the colony that I have visited, and, from the little intercourse they have hitherto held with whites, are more completely savage. It appears to me, also, that they are not only much more numerous towards the coast, but that the inhabitants of the coast are very much more disposed to commit aggressions on the whites than those of the interior. It was chiefly on account of the constant attacks of these coast blacks that the sheep station and boiling-down establishment belonging to Mr. Richard Jones of Brisbane was lately abandoned, within nine months of its formation at a considerable expense.

The blacks of the coast are not, however, the only aggressors; and I am sorry to say that the Wide Bay district in general has the worst possible name with the labouring men, in consequence of the great number of murders (in proportion to population) which have been committed on shepherds by blacks since any portion of the land has been occupied. According to inquiries which I have made, nine shepherds have been murdered in different parts of the district since it was first occupied by Mr. Eales in 1842, although until the last year there were never more than two stations in occupation. Only one murder has occurred since I came to the district, but there have been three other attacks, when the escape of the men was quite extraordinary. I may also mention, that I myself was attacked in my garden, and only escaped by the approach of two of my men, having wrestled so hard for my life that I could not walk without pain in the muscles of my legs for three days after. The attack on me seemed to be the signal for a general attack on my quarters by about 200 aborigines, who were previously concealed; and there can be no doubt that had I been overpowered all the women and children in the place would have been murdered, as I have never known an instance of men of the working class withstanding an attack of the sort when none of their superiors were present to give the example of resistance.

Should the system of reserves of land be carried out, I think the proper method of choosing these reserves would be to set aside blocks at regular intervals when the land shall be surveyed, and to let or sell these blocks just as would be done with any of the adjoining unreserved portions belonging to Government; the money thus obtained to be appropriated in the manner which might hereafter be judged most desirable.

I do not think that there is the remotest chance of inducing the natives to cultivate any of these reserves for their own benefit; and yams, as well as many other descriptions of food, are so abundant in the scrubs in the winter time, that I do not think that in this district there can be any necessity for distributing provisions at any time of the year.

Because of this constant supply of food, I augur ill success to any efforts to civilize the aborigines in this northern part of the coast of the colony. They will never have the same inducements to come to the whites for food and clothing that they have in the colder and drier regions of the south and the interior. I have not yet been able to induce one, or even a family, to remain at my station for even a single week, although I have endeavoured to please them in every way I could think of, short of allowing them to bring their whole tribe to encamp at my door.

I am equally of opinion that schools will be unsuccessful, and for the same reason—that you can offer the blacks no inducement to attend them. I feel quite certain that the only system under which schools could succeed would be one by which the children taken from any given district could be sent to a school at a distance of several hundred miles, and to which no children of the same district should be admitted. The fears which they always entertain of strange tribes would prevent these children from leaving the protection of their teachers until they had become so far accustomed to their own mode of living as to have acquired a dislike to return to their wild habits; and I do not doubt that, should it be possible to establish such a system of removal, any considerable success would result, while any attempt at education made in the neighbourhood of the relations of the children would always be frustrated by the interference of the older members of the tribe. On one occasion I persuaded a boy to go with me on a journey, which lasted three weeks. He was quite wild at starting, but was, nevertheless, very useful in tracking the horses when they had strayed from the camp, and by the time of his return he was comparatively civilized and quite contented. He, nevertheless, vanished within three days of my return to my quarters, the temptation of joining some of his fellows who had encamped near me proving too great for him to resist.

(Signed) J. C. Bidwell,
Commissioner Crown Lands, Wide Bay District.

Imaria, Wide Bay District, Dec. 30, 1849.

NEW. SOUTH WALES.

No. 6.

No. 6. COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY.

(No. 183.) Government House, Sydney, October 12, 1850.
(Received March 31, 1851.)

MY LORD, (Answered May 29, 1851, No. 51., page 71.)

13 Sept. 1850. 23 Aug. 1850. I HAVE the honour to enclose the copy of an Address from the Legislative Council, forwarding to me copy of a petition from certain commuted pensioners which was presented to the Council on the 27th of August last, and praying that I would recommend the prayer of the petition to the favourable consideration of Her Majesty's Government.

2. The petitioners state that they commuted their pensions in order to be enabled to pay for the passage of their families and themselves to this country about eighteen years ago, but that their expectations have been disappointed, and that in their old age they are dependent upon charity for their support. They therefore pray that they may receive compensation for the money which they paid for the passage of their families and themselves.

3. Under the peculiar circumstances of hardship set forth in the petition, I would beg to recommend, under the proviso contained in Clause 3 of the Act 5 & 6 Vict. cap. 36, respecting remission to military settlers, that the petitioners may receive compensation in the shape of remission in the purchase of land at its minimum price at the time they arrived in the colony, to the extent of the average amount of the passage money paid by them for the conveyance from home of their families and themselves.

4. I feel convinced that such a concession will have a very good effect, and that it will be considered an act of justice and liberality on the part of Her Majesty Government.

I have, &c.

The Right Hon. Earl Grey. (Signed) C. A. FITZROY.
&c. &c. &c.

Encl. 1 in No. 6.

Enclosure 1 in No. 6.

To His Excellency Sir CHARLES AUGUSTUS FITZROY, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c. &c.

May it please your Excellency,

We, Her Majesty's most dutiful and loyal subjects, the Members of the Legislative Council of New South Wales in Council assembled, beg to forward to your Excellency the copy of a petition from certain commuted pensioners presented to the Council on the 27th August last, and respectfully to request, pursuant to the second of the following resolutions this day adopted by the Council, that your Excellency will be pleased to recommend the prayer of the said petition to the favourable consideration of the Home Government.

1. That in the opinion of this house the prayer of that petition is reasonable, and is such a prayer as deserves the support of this house.

2. That in pursuance of the foregoing resolution, this house recommends that a representation be made to the Home Government by the head of the Executive Government in this colony favourable to the prayer of the above-named petition.

3. That an address be presented to his Excellency the Governor, embodying a copy of the said petition, together with these resolutions.

(Signed) CHARLES NICHOLSON, Speaker.

Legislative Council Chamber, Sydney,
September 13, 1850.

Encl. 2 in No. 6.

Enclosure 2 in No. 6.

To the Honourable the LEGISLATIVE COUNCIL of NEW SOUTH WALES, &c. &c. &c.

The Petition of the Commuted Pensioners of this colony,

Most humbly showeth,—

That from the reports which were circulated in Great Britain and Ireland eighteen years ago concerning the prosperity of the Australian Colonies, we commuted our pensions in order to be enabled to pay for the passages of ourselves and our families to this country. But we humbly beg to inform your honourable house that on our arrival in Sydney we were grievously disappointed. We were thrown upon a community who

showed us no sympathy; and as the tide of emigration from the mother country began to flow about the time of our arrival, numbers of hearty young men were introduced who, as a matter of course, would be employed before us; and thus, in the country which we believed, from the representations made of it, to be a place in which we could find ample employment, and live better without our pensions than we could do at home with them, we found ourselves to be paupers, and many of our number have from time to time ended their days in the poor-house, to which place they were removed to prevent them from dying in the streets. Many of us who had held the proud distinction of non-commissioned officers in the army, and have borne our part in sustaining the dignity and glory of the British Crown under the immortal Wellington in the Peninsula, at Waterloo, and in America and India, have been reduced to the most degraded condition, and are pining for want of bread in a dependency of that Crown which we had devoted the prime of our lives and our energies to support.

Now we beg leave most respectfully but firmly to inquire, is this the way in which British soldiers should be requited for their services to their country? The Government are well aware that the plan they formed for the settlement of commuted pensioners in the colonies has been a miserable failure. The few that are still alive are destitute, and depending for subsistence for the most part on the cold and heartless charity of the community. We will not attempt to conceal that we feel our degradation; that we and our families, who have grown up and formed connexions with the community, are fully alive to the hardship and misery that have been forced upon us, and the injustice (although not intentional on the part of the Government) with which we have been treated. Your petitioners therefore most humbly submit, that it is peculiarly hard as well as unjust that a circle of exclusion should be drawn around them, in contradistinction to all other emigrants who have been introduced into the colony at the expense of the Land Fund, and they pray that they may receive compensation for the money which they paid for the passage of themselves and families.

They submit that their case is one of peculiar hardship, as they have resigned their hard-earned pensions, their only means of subsistence; and the money advanced to them was barely sufficient to pay for the passage of themselves and their families to Sydney. Their sons and their daughters have grown up and become merged in the population in the shape of house and farm servants, labourers, shepherds, and mechanics, so that your petitioners have contributed their quota to the labour so much wanted in the country. Therefore, apart from the consideration of their former services to their country, they humbly conceive that they have a just claim on the Land Fund as strong as any portion of the emigrants who have arrived since the year 1832, or who may hereafter arrive on these shores; and they humbly pray that they may receive compensation for the money which they paid for the passage of themselves and their families; or otherwise that land, or remission in the price of land at its minimum price when they arrived in the colony, may be given them. We therefore most humbly solicit your Honourable House will be graciously pleased to do what you deem to be necessary to recommend our petition to the Home Government, if you see fit, in order that the prayer of petitioners may be answered.

And we, as in duty bound, will ever pray.

On behalf of Commuted Pensioners,

(Signed) JOHN CRAWFORD.
MICHAEL O'BEIRNE.

Sydney, August 23, 1850.

No. 7.

No. 7.

COPY of a DESPATCH from Governor-General Sir C.A. FITZROY to Earl GREY.

(No. 184.) Government House, Sydney, October 14, 1850
(Received March 31, 1851.)

MY LORD, (Answered, No. 52, Military, 29th May 1851, p. 72.)

I HAVE the honour to transmit the copy of an address from the Legislative Council, requesting me to forward, for your Lordship's consideration, a resolution, passed by the Council, expressing their opinion, that "the augmented "scale of remission money now in force under the sanction of the Lords Com- "missioners of Her Majesty's Treasury ought to be applied to all military, "naval, and medical officers of Her Majesty's and the Honourable East India "Company's services who left their respective services on or after the 1st of "January 1839, and before the augmented scale of remission money took "effect."

2. Your Lordship will perceive that this resolution was passed after the Council had taken into their consideration a petition (copy of which is annexed) addressed to them by the retired officers settled in the colony, who are interested in obtaining the benefit of the increased rate of remission, and that they were in possession of your Lordship's decision as conveyed to me in your

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Lordship's Military Despatch, No. 32*, of the 10th December 1849, and the Despatch enclosed therein, addressd to Sir William Denison.

3. I can only state, in corroboration of the facts urged by the petitioners as strong grounds for the reconsideration of their case by Her Majesty's Government, my own conviction that, owing to the great depreciation in the value of property in land and farming stock in this colony since the period when they settled in it, their condition generally has become extremely to be deplored, and that I believe they have had to struggle against unforeseen misfortunes and difficulties which officers settling at the same period in other colonies have not had to encounter.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. 1 in No. 7.

Enclosure 1 in No. 7.

To his Excellency Sir CHARLES AUGUSTUS FITZROY, Knight Companion of the Royal Hanoverian Guelphic Order, Captain-General and Governor-in-Chief of the Territory of New South Wales and its Dependencies, and Vice-Admiral of the same, &c. &c. &c.

May it please your Excellency,

WE, Her Majesty's most dutiful and loyal subjects, the members of the Legislative Council of New South Wales, in Council assembled, beg respectfully to transmit to your Excellency the accompanying resolutions adopted by the Council this day, and to request that, in accordance with the second of them, your Excellency will be pleased to forward a copy of the same for the consideration of Her Majesty's Principal Secretary of State for the Colonies.

1. That in the opinion of this House the augmented scale of remission money now in force under the sanction of the Lords Commissioners of Her Majesty's Treasury ought to be applied to all military, naval, and medical officers of Her Majesty's and the Honourable East India Company's services who left their respective services on or after the 1st of January 1839, and before this augmented scale of remission money took effect.
2. That an address be presented to his Excellency the Governor embodying this resolution, and praying that he will forward it for the consideration of Her Majesty's Principal Secretary of State for the Colonies.

(Signed) CHARLES NICHOLSON, Speaker.

Legislative Council Chambers, Sydney, September 13, 1850.

Encl. 2 in No. 7.

Enclosure 2 in No. 7.

To the Honourable the LEGISLATIVE COUNCIL of NEW SOUTH WALES in Council assembled.

The humble Petition of the undersigned retired Military, Naval, and Medical Officers of Her Majesty's and the Honourable East India Company's Services.

Respectfully showeth,

That from an early date Her Majesty's Government held out inducements to the class to which your petitioners had the honour to belong to settle in the various colonial dependencies, by granting in their favour certain quantities of land, according to a fixed scale of rank and length of service.

That your petitioners at various periods left their respective services, and have become permanent settlers in Australia.

That on the 1st of July 1831 the unlocated lands were first sold at the minimum price of five shillings per acre.

That shortly after this general change from the free grant system to that of land sales, Her Majesty's Government substituted, as a more convenient mode of arranging the grants to be allotted to retired officers, a scale of remission money so proportioned as to represent at Government auction the quantities of land to which your petitioners, by their rank and length of service, were respectively entitled. For instance, if an officer were entitled to a grant of four hundred acres under the old regulations, he received under the

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* Page 150 of Papers relative to "Emigration to the Australian Colonies," presented to Parliament by Her Majesty's Command, 31st January 1850.

new system a remission of one hundred pounds, which enabled him to purchase that quantity at five shillings per acre at the Government land sales.

That on the 1st January 1839 the upset price of all lands was raised to twelve shillings per acre, and again on the 11th January 1843 to the present minimum price of twenty shillings per acre.

That your petitioners beg to draw the attention of your Honourable House to the fact, that whilst these successive additions were made in the price of land no corresponding increase took place in the remission scale before alluded to, the circumstance having evidently been overlooked by Her Majesty's Government, so that, to refer to the case before given, the sum of one hundred pounds granted to an officer no longer represented four hundred acres, but was an equivalent, on the first addition of price, to 166 acres and two-thirds of an acre, and on the second addition of price to one hundred acres only.

That your petitioners, who retired from their respective services after Government land was raised from five shillings per acre, felt deeply and expressed frequently their sense of the hardship they sustained by this apparent inadvertence, but trusted that time and a full explanation of the circumstances of the case would eventually ensure them justice.

That your petitioners observed with great satisfaction, by a notice from the Colonial Secretary's office, dated 26th January 1849, that an augmented scale of remission money to retired officers had received the sanction of the Lords Commissioners of Her Majesty's Treasury.

That your petitioners submit that as it has been held expedient to raise the scale of remission money granted to officers now retiring, and thus to rectify an omission previously made in not raising the scale of remission money in proportion to the higher price affixed to the land which that money represented, it is only just that your petitioners should reap the benefit of such remedial measure.

That your petitioners, who retired after the promulgation of the orders dated 1st January 1839, only received, at twenty shillings per acre, one fourth of the advantages enjoyed by officers who retired prior to those regulations coming into operation, and one half only of the advantages now held out; and that all your petitioners now seek is to have the same scale of remission money granted to them as is extended at present to officers settling in the Australian colonies.

That the class your petitioners represent is numerically small, and but little expense would accrue to the colony from this act of justice.

That your petitioners, far from having been fortunate in other respects, as regards the period in which they respectively settled, have, on the contrary, had to struggle through the most unfortunate years of colonial history; and that, in effect, their misfortunes, as a class, are a matter of painful notoriety.

That your petitioners, towards the latter end of the year 1849, presented a memorial to his Excellency the Governor, embodying the foregoing facts, and praying that his Excellency would be graciously pleased to order that your petitioners should be allowed such difference of remission money as might arise from the substitution in their case of the present for the former regulations.

That the said memorial was by his Excellency transmitted to the Right Honourable the Principal Secretary of State for the Colonies, who returned a reply in a despatch marked No. 32*, of which reply, with its enclosure, a copy is hereto appended.

That it will be at once perceived by your Honourable House, that whilst the reply from Earl Grey states that he is unable to accede to the request of the petitioners, the peculiar circumstances of their case are not adverted to. Your petitioners would respectfully point out, that even as regards the officers of the Honourable East India Company's Service, in whose case only some reasons for refusal are given, there appears a misapprehension as to the request made by them. They did not ask to be placed on the same footing as officers of Her Majesty's service having already received their remission on the same scale; but they prayed, in common with them, that the new scale of remission money granted to retired officers should have a retrospective effect, and be applicable in the case of all officers who retired prior to that remission scale coming into operation, but after the upset price of land was raised.

Your petitioners now address themselves to the justice and wisdom of the Legislative Council of the colony which is their home, respectfully praying that your Honourable House will be pleased to recommend to Her Gracious Majesty a favourable consideration of their case, with the view of affording them the relief sought for.

And your petitioners, as in duty bound, will ever pray.

[Here follow eight signatures.]

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* Page 150 of Papers relative to "Emigration to the Australian Colonies," presented to Parliament by Her Majestys Command, 31st January 1850.

NEW SOUTH WALES.

No. 8.

No. 8.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to Earl Grey.

(No. 56.) Government House, Sydney, March 24, 1851.
(Received August 13, 1851.)

My Lord, (Answered, No. 122, October 6, 1851, page 74.)

With reference to your Lordship's Despatch*, No. 40, of the 12th March 1849, on the subject of the claim set up by certain grantees of land in this colony for relief from the charge of quit-rents, in consideration of their having maintained convicts under the regulations dated Downing Street, April 1826 and 1827, I have the honour to inform your Lordship, that I have proceeded to apply your Lordship's instructions thereby conveyed to me, by exempting from quit-rent for the time to come such of these properties as appear to be justly entitled to that immunity.

2. But there is one point upon which it seems necessary to obtain your Lordship's further directions. In some cases the quit-rents have been paid, either wholly or in part, by parties who are in a position to prove their claim to the benefit of the regulations referred to, and who therefore expect that they should be refunded; and my object in again bringing the subject under your Lordship's notice is, to ascertain whether it is intended, as I presume it is, that, under the decision already conveyed to me, repayment should be made in such instances to the same extent as a remission would have been granted had the quit-rents been unpaid.

I have, &c.

The Right Hon. Earl Grey (Signed) C. A. FITZROY.
&c. &c. &c.

No. 9.

No. 9.

Copy of a DESPATCH from Governor--General Sir C. A. FitzRoy to Earl Grey.

(No. 73.) Government House, Sydney, April 7, 1851.
(Received August 13, 1851.)

My Lord, (Answered, No. 117, September 15, 1851, page 73.)

I have the honour to transmit herewith a petition, which has been forwarded to me for that purpose, addressed to Her Majesty the Queen by daughters of certain colonial chaplains of the Church of England, who pray for a remission of the quit-rents to which their grants of lands are liable.

2. The number of signatures to this petition is eight; but it appears that there are three or four additional names of ladies to whom such grants have been made which might have been attached to the document.

3. In submitting this petition, I have the honour to draw your Lordship's attention to your Despatches of the 17th January 1848, No. 9, and 19th October last, No. 149, wherein you were pleased to convey to me your instructions for the remission of the quit-rent in the similar cases of Miss M. B. Reddall and Mrs. Lydia Fraser, on the conditions proposed by the Land and Emigration Commissioners in their report on Miss Reddall's application, namely, that the value of the grants made to them does not exceed in each case the sum of 320*l.*

4. In the event of the prayer of this petition being acceded to, I beg to solicit your Lordship's instructions as to whether the indulgence in the remission of quit-rent, on the condition above stated, may be extended to the few other cases which are not now brought under notice.

5. Pending the receipt of your Lordship's reply, I have authorized the exaction of the quit-rents claimed from the petitioners to be suspended.

I have, &c.

The Right Hon. Earl Grey, (Signed) C. A. FITZROY.
&c. &c. &c.

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* Page 78 of Papers relative to "Crown Lands in the Australian Colonies," presented to Parliament by Her Majesty's Command, 14th August 1850.--Part I. New South Wales.

Enclosure in No. 9.

To Her most Excellent Majesty the Queen, &c.

The humble Petition of the undersigned Daughters of the Colonial Chaplains of the Church of England of the Colony of New South Wales,

Most respectfully showeth,

That during the administration of his Excellency Sir Ralph Darling your petitioners were authorized by the home Government to receive certain grants of land, being intended as a provision for the children of the clergymen, in lieu of any augmentation of their stipends. In conformity with this gracious intention your petitioners obtained grants of land, and others similarly circumstanced received a compensation in money in lieu thereof.

That it was compulsory by the letter of occupation on persons so receiving these grants to expend a sum of money in the way of improvement upon the same equal to their value of five shillings per acre.

That your petitioners are now liable to heavy quit-rents, which, taken together with the capital expended, and a further amount necessary to render them productive, has entirely frustrated the gracious act of royal bounty which it was intended to promote, inasmuch as under these circumstances the grants in question are wholly inoperative of that support to your petitioners which they were contemplated to afford.

That your petitioners having learned that Miss Reddall, daughter of the late Thomas Reddall, colonial chaplain, has been favoured by a remission of the said quit-rents, your petitioners, some of whom are widows with large families, others orphans, and most of them, owing to the great depreciation of property in the colony, in very humble and needy circumstances, most humbly and respectfully solicit that your most excellent Majesty will be graciously pleased to extend to petitioners the like merciful consideration in the remission of the quit-rents now exacted on their respective grants.

And Your Majesty's humble petitioners, as in duty bound, will ever pray.

Name.	Family.	Condition.	Number of Children.	Land, Number of Acres granted.	Annual Amount of Quit Rent.	Total Amount of Quit Rents due.	Actual Rental.
					£ s. d.	£ s. d.	
Elizabeth Fulton -	Daughter of the Rev. Robert Cartwright.	Widow.	Nine.	1,280	10 13 4	- -	15*l.*
Lydia Fraser - -	Do. of the late Rev. H. Fulton.	Married.	Nine.	1,280	10 13 4	32 0 0	Nothing.
Anne Wentworth -	Do. do. - -	Married.	—	1,280	10 13 4	- -	Nothing
Anne Sadleir - -	Do. of the Rev. Robt. Cartwright.	Married.	Three.	1,280	10 13 4	32 0 0	20*l.*
Martha Betts - -	Do. of the Rev. S. Marsden.	Married.	Six.	1,280	10 13 4	- -	50*l.*
Elizabeth M. Bobart	Do. do. - -	Married.	Three.	1,280	10 13 4	10 13 4	15*l.*
Mary Betts - -	Do. do. - -	Married.	Nine.	1,280	10 13 4	- -	*140*l.*
Anne Hussall -	Do. do. - -	Married.	Seven.	1,280	10 13 4	- -	20*l.* per ann.

* A large sum has been expended on the above property.

No. 10.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to Earl Grey.

(No. 84.) Government House, Sydney, April 25, 1851.

(Received October 6, 1851.)

(Answered November 20, 1851, page 172.)

My Lord,

At the request of Mr. John P. Fawkner of Melbourne, I have the honour to enclose a letter which he has addressed to your Lordship relative to the Crown lands in that district, and which he has forwarded to me through the Superintendent of Port Phillip.

I have, &c.

The Right Hon. Earl Grey. (Signed) C. A. FITZROY.

&c. &c. &c.

Enclosure in No 10.

To Her Majesty's Principal Secretary of State for the Colonies.

My Lord,

Accept my thanks for the great boon you have assisted to confer on this province.

NEW SOUTH WALES.

Victoria, by me, sincerely thanks you and your colleague Lord John Russell, for the bill granting us separation from Sydney. Your opponents, in their ignorance or their wilfulness, did much to mar the best points of the bill, more particularly that clause which allowed the Colonial Legislature to amend whatever required alteration in the constitution.

The stand you made to prevent the Colonial Council from dividing the lands of this fertile country amongst themselves and their friends and dependants, deserves and receives from every dispassionate man of sense in this colony their warmest approbation and their sincerest thanks.

This letter is written to point out some shoals which the Home Government can scarcely be expected to see. The matter to be referred to is leases said to be about to be granted to the holders of Crown lands in this colony.

Can you, my Lord, consent to allow any one man to lay hold upon, merely by saying, I claim all this land from such a hill or lake to such a mountain or coast line, although that claim extends to upwards of eight hundred and forty thousand acres? Before you grant this (dreadful injustice to others) to any one man, cause the Colonial Government to forward to you the quantity of stock this man and such like men holds; and more, the quantity of stock he had when he made this (to the people here) ruinous seizure. And to do this fairly, order that this return be published in some three or more of the local journals, and that the information be forwarded to you by means of those journals.

This is in all cases the only certainty that you are put in possession of the truth.

Two persons did hold from the Crown, or at least they claimed so to hold, a run or station for stock, which by their own showing extended no less a length than fifty-six miles across, and for this they paid, I believe, only ten pounds a year for some time.

This is the dreadful blot upon the pastoral system. The Home Government, and they only, can redress this dreadful wrong. Hundreds of persons would be glad to take runs, and stock them, and there are plenty of places in which they might locate themselves, but the colonial authorities have allowed many persons to monopolize immense tracts of land which they cannot and do not occupy.

Millions of sheep and hundreds of thousands of cattle, producing a vast amount of tallow and wool, could be produced, if these monopolists were done away with; and it is the Secretary of State and the Home Government that we look to for this just distribution of the waste lands of this fine province.

My Lord, if you should in your after consideration find that it will be just, right, and proper to grant leases, pause before you grant them in these vast masses; consider, can you justify to your own conscience the fact of leasing to one man, for a mere nominal rent, a plot of land larger than several of the seperate counties of England.

Would it not be prudent—would it not be doing justice to the community, to abolish these extravagant monopolies? And recollect, something is due to the bulk of the inhabitants, as well as to the class squatter. Are one thousand persons, because they have seized the people's land, I say, are these one thousand persons, the only people whose interests are to be considered, or are the rights of all the rest of the community to sink into utter nothingness in their favour? Merely from the fact that they have seized upon nearly all the lands of this vast and fertile colony, and are thereby enabled to export a great quantity of wool and tallow. They are enabled to do this, not from their monopoly of industry, or of energy, nor of talent, nor yet of wealth when they commenced squatting on Crown Lands; no, it is not from all or any of these causes; it is from the carelessness, want of system, and gross favouritism of the Crown Land Commissioners, and our local authorities, and it has been only through the wisdom of Her Majesty's Councillors in Britain that the province of Victoria has not become the property of about one thousand squatters.

Only fancy the fee simple of this fine province vested in one thousand persons, a country capable of supporting in peace, plenty, and contentment many millions of the human family.

My advice is, and it is the counsel of an old colonist, one of the year 1803, that in no instance shall a lease be given to any man for more than fifty thousand acres, and that no man shall hold more than one lease.

Facts are good weapons I trust, and these are facts, my Lord.

In 1835 a poor but industrious man came over to Port Phillip to settle, shortly after I had founded Melbourne; that is, he brought with him fifty-three sheep, as he himself then told me, of his own, and a flock of some hundreds of which he was only overseer. Shortly after his arrival, say in 1836, another stockholder landed with four hundred sheep. The man with the four hundred sheep was shut in and kept closed until he had only about seven thousand to eight thousand acres of land on which to run his flocks and herd; but the man of fifty-three sheep, as I find by the returns published in 1848, claimed in the unsettled districts no less than four runs, each of fifty thousand acres, and another run in the settled districts of say twenty to twenty-five thousand acres.

Thus, you see, the wisdom of the officers holding power here, and the grasping spirit of the monopolist.

I have no hesitation in saying that one of those runs of fifty thousand acres was quite competent to the agistment of all the sheep this man then had, and that the other four runs authorised by the Local Government to this forestaller were not occupied by

sufficient stock to consume the grass, consequently inflicted a serious loss on the colony, and prevented many persons from becoming stockholders, and from benefiting themselves, providing for and inducing their friends to emigrate, thus helping not only the colony, but the emigrant, and also relieving the overpressed British labour market, and, more than that, exporting to England large amounts of wool and tallow, and consuming many pounds worth per head of those manufactured articles which English workmen so abundantly produce, and of which these lands if fairly apportioned would absorb a vast amount, an amount continually increasing; but which, if you grant improper leases to these people, in quantities as they claim the land, farewell to much greater increase. An increase there must be, because the land is not yet occupied; but if these people get their leases of these vast quantities of land they will stock them very leisurely, or else they will partly ruin the new comer, by selling or letting them parts of these runs at very high, nay at enormous rates, as compared with the sums they pay to the Crown. This is daily taking place; the squatters when they sell their right of grazing, a ten pound a year licence, they frequently charge from one to five hundred pounds for their right. What right? how acquired? Let them show, I say—a right only got by favoritism upon monopoly.

Then, if leases are granted, great care must be taken that the right of the leaseholder only extends to the use of the land for the sole purpose of grazing.

Already, my Lord, it is whispered amongst the class squatter, that they will not allow people to cut timber on the lands they thus claim to hold; and now it is a fact that may perhaps astonish you, but the Local Government let a piece of land known as the Stringy Bark Ranges to a squatter for ten pounds a year.

These ranges are covered with timber fit for house and ship building, and the Local Government, out of kindness to the industrious sawyers and woodcutters, allow them, every pair, to build a hut and cut this timber, for the sum of fourteen pounds each pair of woodcutters per annum.

I lately presented a petition to the local authorities here, handed to me for that purpose by a committee of the body of sawyers and woodcutters, in which they assert, and I believe it to be true, that these industrious men pay about one thousand a year for only a part of the same land that the squatter pays simply ten pounds a year. And the squatter and the Local Government forbid these working men to feed the cattle that draws their timber to town on the wild grass of these lands—a monstrous injustice.

This, my Lord, is a great fact, and plainly points out to you the vast good you have done by holding the authority over these lands in your own hands.

But look at this question: The woods and mines and minerals, and all other rights over these lands, must be withheld from the squatter; all, all except the right of grazing his stock, and residing thereon; or how are we, who bought our lands and paid from one to four, five, aye to sixty pounds an acre—how are we to obtain timber, &c. for our various wants? Why, solely by buying of the squatter, who pays less than one half-penny an acre of yearly rent; whereas we landholders have paid from twenty shillings up to above sixty pounds (in villages) per acre to the Crown. Look at this side of the question: If the squatter, pay a nominal rent, and which of right only covers the grass his stock consumes, can, by virtue of his lease, shut us up from making roads, and can prevent us from taking the timber, stone, &c., &c., &c. that is required for the towns, the villages, and farm buildings, the country will be ruined, or nearly so—the squatter, that only pays a few thousands of pounds a year, not near equal to the interest of the money paid by the holders of bought land, who to this date have not one thousand square miles purchased, and yet the interest of that sum covers manifold the sum paid by the squatters for the other ninety-six thousand square miles of this colony! See Mr. Westgarth's Statistics of Victoria, for the ninety-seven thousand square miles of Victoria.

Who has the most right to privileges and immunities? The man that for every square mile of land he holds, who pays from six hundred and forty pounds upwards, or the man who only pays ten pounds a year for the use of twelve thousand eight hundred acres, upon which he exercises all the rights of ownership? That is to say, except you, my Lord, and your colleagues of the Council, boldly step in between us and our almost, if not all ruin.

This matter I leave in your Lordship's hands, as I did the matter of non-election, when we of Victoria elected your Lordship, convinced that in this case, as in the former, you will do us real substantial justice.

I have, &c.
(signed) JOHN PASCOE FAWKNER.

No. 11.

No. 11.

COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY.

(No. 145.) Government House, Sydney, August 5, 1851.
(Received November 14, 1851.)

MY LORD, (Answered, No. 150, December 8, 1851, page 75.)

IN your Lordship's Despatch, No. 135*, of the 15th September 1850, instructions were conveyed to me to report upon several points therein adverted

* Page 69.

NEW SOUTH WALES.

to, connected with the measures for facilitating the sale of Crown lands in this colony, which I had the honour to submit for your Lordship's consideration in my Despatch, No. 43, of the 13th March 1850*, and upon which you required further information.

2. Having laid this Despatch before my Executive Council, I have now the honour to transmit the copy of our proceedings with reference to this subject, which I trust will be found to contain full and satisfactory information on all the points referred to in your Lordship's Despatch.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. in No. 11. No. 51/202.

Enclosure in No. 11.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 29th July 1851, relative to a Despatch of the Secretary of State on the Subject of certain proposed Measures for facilitating the Sale of Crown Lands in New South Wales.

Minute No. 51/37.—Confirmed 30th July 1851.

Executive Council Office, Sydney, August 2, 1851.

REFERRING to the proceedings on the 13th May last, when the Surveyor-General's returns of land surveyed and ready for sale, and the Auditor-General's return of the sums received during the last ten years for the rent of lands within the settled districts, were laid before them, the Council adopt the following Minute on the points raised in Earl Grey's Despatch of the 15th September 1850, No. 135.

2. His Lordship states that he has been unable to gather from the enclosures to his Excellency's Despatch of the 10th March 1850, No. 43, whether the surveys are, or are likely to be, in the state of readiness in which his instructions of the 7th April 1849 desired that they should be kept. The returns furnished by the Surveyor-General in his letter of 30th April last will show the extent to which land of the different classes is now ready for sale, and will so far afford the information which his Lordship desires. It may be added, that measurements are constantly in progress throughout the colony, and that country lands in lots, ranging in area from 30 to 640 acres, are being from time to time brought forward for sale by auction at the minimum upset price, with a view to keep up a supply of land purchaseable without competition or delay.

3. The next point which the Council have to notice is, the reference made by his Lordship to a remark contained in a letter from the Surveyor-General, that "illegal "occupancies were to be found in every corner of the colony, large as it is, particularly in "the countries west of the Blue Mountains." His Lordship wishes to be informed how far his Excellency may consider this statement respecting the amount of unauthorized squatting to be accurate and well-founded; and, if so, to what extent, and in which districts, the evil exists, and what steps may have been taken for the correction of so pernicious a practice.

4. There can be no doubt that at the date of the Surveyor-General's letter referred to by Earl Grey, the unauthorized occupation of the lands of the Crown in the settled districts did exist to a considerable extent. This was owing mainly to the absence of any effective powers on the part of the Government to prevent such occupation during the interval which elapsed between the expiration of the local Act of the 2d Vict., No. 27, which the Legislative Council of the colony refused to renew, and the promulgation in the colony of the Act of Parliament 9 and 10 Vict. cap. 104.; that is to say, from the 30th June 1846 to the 1st May, 1847.

5. In the regulations for the occupation of Crown lands within the settled districts, which were issued on the 29th March 1848, in pursuance of Her Majesty's Order in Council of the 9th March 1847, the following clause was inserted:—

"It is to be distinctly understood that as soon as these regulations shall have been "brought into effect all persons who may be found in occupation of Crown lands within "the settled districts, contrary to the plain intent and meaning of these regulations, will "be immediately proceeded against under the provisions of the Act of Parliament "9 and 10 Vict. c. 104."

In order to carry out this regulation, a number of Commissioners were appointed, with instructions, of which a copy is appended to this Minute, to report every case of intrusion on Crown lands which might come under their notice, and received a general authority to take proceedings against the intruders whenever that course might be directed by the Governor. By these officers numerous proceedings have been instituted, and the illegal occupancy of Crown lands has been to a considerable extent checked by their agency.

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* Page 70 of Papers relative to "Crown Lands in the Australian Colonies," presented to Parliament by Her Majesty's Command, 14th August 1850.

NEW SOUTH WALES.

7. There are, however, two other measures adopted by this Government, which, combined with the active interference of the Commissioners, have, it may be said, nearly abolished these illegal occupancies. The first was, the lowering of the minimum yearly rent, with the concomitant inducements to obtain leases of Crown lands for pastoral purposes which are contained in the regulations of the 29th March 1848. The return submitted by the Auditor-General shows that in the year 1848 the revenue derived from rents of lands in the settled districts had fallen to 1,573*l.*, and that in the year 1849, when the new regulations came into effect, it rose to 9,173*l.*, although the minimum rent had been lowered from 5*l.* to 10*s.* per section. Assuming, then, for the sake of instituting a comparison, that in neither year was more than the minimum rent paid for any one section, the quantity of land rented was, in 1848, 314 sections, or 200,960 acres; and in 1849, 18,346 sections, or 11,741,440 acres.

8. The second measure had for its object the prevention of the further occupancy of Crown lands for purposes of cultivation. A large proportion of the lands so occupied had been held under licences from the Government, but, in consequence of the provision of the Order in Council, that in the settled districts no lands leased from the Crown should be used for other than pastoral purposes, their continued cultivation under a leasehold tenure would have been illegal; a special arrangement was therefore made, under which these lands were measured in lots of thirty acres each, and put up for sale by auction as country lots at 1*l.* per acre; so that, if not bought at the sale, they might be purchaseable afterwards at the upset price without competition. This measure has been attended with great success, and the occupants have in most instances become possessed of fee-simple estates in the lands which they had brought under cultivation.

9. The Council are still of opinion that it would promote the sale of town and suburban allotments, and be a great convenience to intending purchasers, if lands of this description, after having been offered for sale, were purchaseable without competition, in the same manner as country lots; and they think that in any future amendment of the Crown Land Sales Act it would be advisable that a provision to this effect should be recommended to Parliament. The system, however, which has been adopted, of holding the sales in the districts in which the lands are situated, has removed much of the inconvenience to which persons in the country wishing to buy country town allotments were subjected when the sales were held at Sydney, and the Council do not consider that this single object is now of sufficient importance to demand from them a renewed recommendation that a special Act of Parliament should be passed to authorize it.

(Signed) Micl. FitzPatrick.
Clerk of the Council.

Sub-Enclosure.

Sub-Encl.

Sir, Colonial Secretary's Office, Sydney, 18 .

I do myself the honour, by the direction of the Governor, &c.

2. The appointment you will perceive is for the colony generally; but it is not proposed to call upon you to act in any other than the district mentioned, although your services may, upon special occasions, be required beyond it.

3. One of the chief objects of the appointment of Commissioners within the settled districts is to enforce the regulation contained in the 42d clause of the notice of the 29th March 1848, which prohibits the occupation of Crown Lands except in conformity with the terms and conditions which are there prescribed. It is no less essential for the protection of the landed proprietor and duly authorized occupant than for the purposes of police, that this principle should be strictly observed.

4. If by this means the whole of the lands within the settled districts available for pasture can be brought under authorized occupation, a considerable progress will have been made towards placing them under proper regulation, and for preventing those serious evils which have been so extensively prevalent from the misconduct of parties who, without authority, have settled upon the vacant Crown lands, and have carried on, not only an illicit traffic in spirits, to the corruption of the servants of the neighbouring proprietor, but have engaged in cattle stealing and in the receiving of stolen goods, and in other serious infractions of the law. It is also important that all unauthorized occupations should, as far as possible, be prevented, in order that the stock of the landed proprietors and licensed occupants should not be liable to contagion from scab or influenza, and the consequent extension and perpetuation of these malignant diseases so destructive to the best interests of the community.

5. For your information and guidance in the performance of the duties devolving upon your office, I beg to refer you to the following documents:—

1. The Act of Council, 4th Gul. 4., No. 10, and as amended by 5th Gul. 4., No. 12.
2. The Act of Parliament, 9th and 10th Vict. cap. 104.

NEW SOUTH WALES.

3. The regulations of 1st March 1843, respecting the purchase of land.

4. The regulations of 29th March 1848, with regard to the occupation of Crown lands within the settled districts, and the notices of the 21st November 1848 and 26th July last.

5. The form of information necessary to be used in proceeding against intruders, and the opinion of the Attorney-General and Solicitor-General thereon.

6. It will be your duty to represent to me, with full particulars of names and situations, every intruder upon vacant Crown land without authority which may come under your own special notice, or of which you may be apprised by any respectable person, in order that the same may be submitted for the information and commands of the Governor and in the event of his Excellency directing proceedings to be taken against the parties, you will be duly apprised and instructed to act under the general authority which I now enclose; and whilst employed upon the duty you will be allowed the sum of one pound sterling per diem, in remuneration for your services and expenses for every day you may be necessarily engaged, upon the production of such vouchers as may be required by the Auditor-General in support of the same.

7. In any case, however, where the lands intruded upon are under lease, the lessee will be authorized to prosecute, the Government having parted temporarily with its interest therein.

I have, &c.
(Signed)

P.S.—You will have the goodness to establish your head-quarters in some convenient locality, apprising me of the situation as well as the nearest post town.

No. 12.

No. 12.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to Earl Grey.

(No. 153.) Government House, Sydney, August 28, 1851.

My Lord, (Received February 5, 1852.)

I have had the honour to receive your Lordship's Despatches of the numbers and dates mentioned in the margin*, the first having reference to the quit-rents due in respect to allotments of land in the towns of Parramatta and Windsor, and the second having reference to quit-rents generally.

No. 9.* 6 July 1850. No. 174., 14 Nov., page 70.

2. As your Lordship has in both these cases left it to myself and my Executive Council either to relinquish or further to modify these quit-rents, I hastened to lay these Despatches before the Council, and I now have the honour to enclose, for your Lordship's information, extracts from the minutes of the proceedings of that body, showing the course which, under the circumstances of the case, they thought it most expedient to adopt.

3. Acting on the advice of the Council, I caused to be published the notice a copy of which is embodied in the within minutes, and according to which the following modification of the rates of quit-rent in this colony is sanctioned, that is to say:—After the close of the present year all quit-rents on country lands of higher annual amount than two shillings per hundred acres will be reduced to that uniform rate, provided that the four annual payments which will have become due under the previous notice of 9th October 1846, shall have been duly made, according to the existing rates of quit-rent. Persons who shall have made these payments will be permitted to redeem their quit-rents by making, at the reduced rate of two shillings per hundred acres, the payments necessary to complete twenty years' purchase, according to the scale set forth in the notice of 1846. The quit-rents on all lands in the country towns will be reduced to one fourth of the rates specified in the deeds of grant. Whilst, therefore, the quit-rents on country lands will be reduced to one uniform rate, and the quit-rents in country towns to one fourth of their present amount, the principles laid down in the notice above referred to, for regulating the mode of payment and redemption, will still be adhered to.

4. The case of the allotments of land in the town of Parramatta, formerly held under leases now expired, is a peculiar one, and is not met by the terms of this notice. The course which, with the further advice of the Executive Council, I purpose taking with respect to these allotments, is to apply to them the principle of Her Majesty's Order in Council of 19th June 1850, and to grant

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* Page 89 of Papers on Crown Lands, Australia.—Part I. 14th August 1850.

to the claimants leases for one year from 1st January next, at the reduced yearly rent of 4*d.* per perch, with permission to buy the land at ten years' purchase of that reduced rate, or at 3*s.* 4*d.* per perch. Such leases will not, however, be renewed; and if during their currency the lessees fail to exercise the right of pre-emption accorded to them, the land will be resumed by the Crown.

5. This modification of the quit-rent regulation has been adopted, after much consideration, on the part of myself and the Executive Council, in the hope that it would tend to simplify one of the most embarrassing questions that this Government has had to deal with. And as the arrangement is one which, although showing great consideration for private interests, is not unmindful of the public welfare, I trust it will meet your Lordship's approbation.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. A. FITZROY.

Enclosure in No. 12.

Encl. in No. 12.

PROCEEDINGS of the EXECUTIVE COUNCIL on the 6th and 9th May 1851, relative to a Despatch from the Secretary of State respecting a Petition to the Queen from several Proprietors of Land in this Colony on the subject of Quit-rents.

*Extract from Minute of the Executive Council, No.*51/17, *6th May* 1851.

Present :—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Attorney-General.
The Honourable the Colonial Treasurer.

His Excellency the Governor brings under the consideration of the Council a Despatch from the Secretary of State with reference to a petition to the Queen from several proprietors of land in this colony, praying that quit-rents on such lands as were granted by the Crown subject to that impost, should either be at once abandoned or left to be dealt with by the local authorities.

His Lordship in this Despatch, after stating his own views on the subject, and expressing the difficulty which he has in supposing that to waive or materially reduce such claims as those in question might not be sacrificing general to particular interests, observes, that the matter is one in which Her Majesty's Government have no other interest or wish than not lightly to abandon any right of the Crown which is of advantage to the public of New South Wales. "If, therefore," his Lordship adds, "being cognizant of public opinion on the spot, and of the merits of the question as they may appear under the light of local knowledge, you and the Executive Council consider that it would be proper and advisable to relinquish or further modify the quit-rents, I leave it to your discretion to adopt the measure which you may judge fitting under the circumstances."

His Excellency further, in reference to the quit-rents on the Paramatta leases, lays before the Council the maps affording the information desired by the Council, to show the situations of the lands on which the quit-rents were due.

The disposal of the quit-rents being now left to the local Government, it appears to the Council that the regulation of the 9th October 1846, in respect to the mode of payment, should be adhered to; but that as respects the rate of payment hereafter, a further regulation should be issued, reducing all rents on country lands of higher rate than two shillings for each hundred acres to that uniform rate, and those on lands in country towns to one fourth of the rates fixed in the respective grants. The further consideration of the proposed regulation is deferred to a future day.

Extract from Minute of the Executive Council, No. 51/18, *9th May* 1852.

Present :—

His Excellency the Governor.
The Honourable the Commander of the Forces.
The Honourable the Colonial Secretary.
The Honourable the Colonial Treasurer.

The Council having met, pursuant to summons, resume the consideration of the reduction of quit-rents proposed at their last meeting, and in pursuance of the decision then agreed upon they advise the issue of the following notice :—

"Under the authority of the Right Honourable the Secretary of State, and with the advice of the Executive Council, his Excellency the Governor directs it to be notified, that

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on the expiration of the year ending on the 31st December next all quit-rents on *country* lands of higher annual amount than two shillings for each one hundred acres will be reduced to that uniform rate, provided that the holders of the lands shall have made the four annual payments according to the rates fixed in their respective grants which will then have become due under the regulation of the 9th of October 1846, and provided that the future rents be punctually paid until the claim to them on the part of the Crown shall have been extinguished by the completion of twenty annual payments, or by an equivalent payment in cash, according to the scale laid down in the said regulation. It is to be understood that parties having made the four annual payments at the present rate, in the manner above directed, will be entitled to redeem, at the reduced rate of two shillings per one hundred acres, the further payments necessary to complete twenty years rent according to the scale set forth in the notice above referred to.

"It is further notified that the quit-rents on allotments in country towns will be reduced to one fourth of the rates fixed in the deeds of grant; but in all other respects the same principle is to be applied to them as is laid down in this notice respecting country lands."

As respects the Paramatta leaseholder, the Council recommends that the principle of the recent Order in Council should be applied to their case and that they should receive leases for one year, to commence on the 1st of January next, at the reduced yearly rent of fourpence per perch; that during the currency of these leases the lessees should have the privilege of buying the land at ten years' purchase of the reduced rent, which will amount to three shillings and fourpence per perch; and that, should they fail to purchase on these terms during the currency of their leases, which will not be renewed, the land should be resumed by the Crown. The Council do not consider it necessary at present that this rule should be applied to other towns than Parramatta, or that public notice should be given of its adoption; but they recommend that a communication should be addressed to the parties interested.

No. 13.

No. 13.

EXTRACT of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY, dated Sydney, August 30, 1851 (received February 5, 1852). (No. 158.)

"In transmitting the reports from the Crown Land Commissioners on the state of the aborigines for the year 1850, I am not aware that there are any particular facts therein stated to which it is necessary to call your Lordship's special attention.

* * * *

Your Lordship will not fail to observe with regret that the Commissioners generally report that these people are still decreasing in numbers, and that in some of the districts it is found that before long the race will become extinct.

In the Clarence River district, however, Mr. Fry, one of the most intelligent of the Commissioners, reports that there has been no diminution of numbers for the last nine years; that children have been born in great numbers; so much so, that were it not for the battles that often take place among the tribes an increase might be anticipated.

In most of the districts the aborigines are described as peaceable, and living amicably with the white settlers, for whom they occasionally work; but except in one or two instances not continually or steadily. Whenever they are willing to work it is stated that they are well paid and fed. The districts in which they are stated to be most savage and troublesome are the Maranoa, Burnett, and Wide Bay (the latest established); but in these districts the native police have already produced a great amendment."

Enclosure in No. 13.

EXTRACTS from Reports of Crown Land Commissioners relative to the Aborigines.

EXTRACT from Mr. Commissioner Bingham's Report on the State of the Aborigines of Murrumbidgee District, 1851.

"The two reserves directed to be set apart for the use of the aborigines (640 acres each in extent) are situated at "Boratta," on the Edward River, and the other at "Lake Bingham," on the "Pum Buon" Run, have been pointed out to the "Waddy Waddy" tribe who

frequent that locality for fishing, and to the "Burraba Burraba" tribe, who frequent the reserve at Boratta. The natives appeared gratified at the communication made to them on this matter.

No particular use has yet been made of the land set apart for the aborigines; they, however, encamp there, and fish in the waters, as they do in other eligible situations for such purposes." * * * *

EXTRACT from Mr. Commissioner Mayne's Report on Aborigines in the Wellington District, dated 1st January 1851.

"The reserves in the district set apart for the aborigines have not yet been brought into use by the formation of any establishments on them." * * *

EXTRACT from the Report of Mr. Bligh, the Crown Commissioner, Gwydir, to the Chief Commissioner, reporting on Condition of the Aborigines of his District, dated 28th Febuary 1851.

"Referring to the instructions conveyed by your circular letter, No. 209, of 16th February last, I have the honour to state, that none of the native reserves approved of in this district have as yet been brought into operation, and that there is, consequently, as yet, no actual use made of the land, and no particular resort of the aborigines thereto. In fact, though the localities and areas of the several reserves have been decided upon, I am not aware that any more precise definition of the land to be so applied has been made, nor would any object be gained by so doing, until the precise method has been ascertained in which it may be intended to apply these reserves for the moral improvement and physical support of the aborigines.

I have, in accordance with the instructions conveyed to me by your letter of 3d September 1850, No. 1,697, endeavoured to apprize the aborigines that these reserves have been set apart for their special use, but without much success, as it is difficult to make them understand the meaning of a special reservation of a square mile for their use.

Whenever the requisite steps can be taken for the distribution of provisions and the supply of medical assistance at these particular spots, the natives will very soon acquire an experimental appreciation of their advantages; but it will be easily seen that an essentially vagabond race of savages can have no very vivid sense of the advantages of a special reservation of a small tract for their use, till it be accompanied by the collateral benefits which the benevolence of the Government intends for them." * * *

EXTRACT from Mr. Commissioner Merewether's Report, dated 8th March 1851.

"I have pointed out to Mr. Darke, the Government surveyor, the portion of land selected by me as a reserve for the uses of the aborigines, but as the instructions contained in your letters of the 16th February 1850, No. 209, and the 3d September 1850, No. 1697, do not warrant me in incurring any expense, I have abstained from taking any other step than that specially pointed out by you in the letter of the last-named date, namely, making known to the natives, by all the means in my power, that the tract of land alluded to has been set aside for their special use. Up to this date they have not made any use of it."

* * * *

EXTRACT from Report from Mr. Fry, the Commissioner of Crown Lands, Clarence River, to the Chief Commissioner of Crown Lands, reporting upon the State of the Aborigines in the Clarence District during the Year 1850, dated 11th February 1851.

"I am sorry to be constrained to say, that the more I reflect upon the aboriginal character, the less sanguine do I feel that the contemplated establishments are likely to be productive of the wished-for results. I apprehend that the difficulty of reducing them from a life of alternate indolence and excitement (the passion for which is born with them, and is, indeed, part of their nature), educating them to industry, and inducing them to adopt fixed habitations, will be found obstacles too great to be overcome. To anything like steadiness or sameness of labour they evince the most insuperable repugnance. So long as the novelty lasts, an occasional effort may be obtained from them at almost any occupation, but when that wears off, and the task, by ceasing to be new, ceases to interest, no remuneration will induce them to remain." * * * *

EXTRACT from Mr. Commissioner Powlett's Report, dated Crown Commissioners Office, Melbourne, 15th February 1851.

"I have the honour to report, for the information of the Right Honourable the Secretary of State, that little or no alteration has taken place in the condition of the

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aborigines in the Western Port district during the past year. They continue to frequent the two aboriginal reserves, the one at Mount Franklin and the other on the River Goulburn, by much the same numbers as formerly, and a few of the younger natives appear to have made some progress in reading, writing, and sewing at the school establishment at Mount Franklin; but it is a lamentable fact that there have been some instances of their returning to their wandering habits, and adopting their former mode of life, even after considerable pains have been taken to ameliorate their condition, and teach them the truths of the Gospel." * * * *

EXTRACT from Mr. Commissioner Addis's Report, dated Geelong, 28th December 1850.

"From the erratic habits of the aborigines being as yet but little changed, I do not consider that they would be limited to any reserve established for that purpose, unless sickness or want of food compel them." * * * *

No. 14.

No. 14.

COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to Earl GREY.

(No. 22.) Government House, Sydney, January 29, 1852.
(Received June 16, 1852.)
(Answered, No. 30, July 1, 1852. page 75.)

SIR,

I DEEM it my duty to report to your Lordship the steps that have been taken by this Government for endeavouring to ascertain the fate of Dr. Leichhardt, of whose departure in 1848 on an expedition to explore a route from Moreton Bay to Western Australia your Lordship is already acquainted.

2. In September 1850, a suggestion was made by Captain King, R.N., as to a probable means of obtaining information of this enterprising traveller, namely, to engage any ship bound through Torres Straits to call at Port Essington, and visit the site of the late settlement, to ascertain if the expedition had reached that place, and generally to make inquiries of the natives, as it was possible, that if they had arrived at the abandoned settlement they might have made their way over to Timor or Macassar.

3. As it was found to be too late in the year to procure a vessel passing through the Straits, I addressed a letter to the Naval Commander-in-Chief on the East India station, dated 21st October 1850, to inquire whether he could despatch a vessel to carry out the suggestions made by Captain King. This, it has since been ascertained, Admiral Austen was unable to do, as the vessel he had destined for this service was suddenly ordered to the Cape. I also wrote to the Governor of Labuan on the 16th January 1851, requesting that he would cause inquiries to be made of the inhabitants of the neighbouring islands, who were in communication with the Malays who annually visit New Holland; and I informed him that this Government would be responsible for any reward found necessary to be granted for that purpose. Later in the year, communications of a somewhat similar tendency were made by me to the Governor-General of the Netherlands India and the Resident Councillor at Singapore.

4. On the 4th April 1851, the Legislative Council, then in session, voted an address for 2,000*l.* to fit out an expedition to proceed in search of Dr. Leichhardt and his party. In pursuance of this vote it was arranged, that, as first suggested by Captain King, advantage should be taken of some vessel passing through Torres Straits, and that a small vessel, with sufficient supplies, &c., should be attached to her, and left at the disposal of the Master, according as circumstances might dictate; and, secondly, that a light expedition should follow up Leichhardt, as far as it was possible to do so without jeopardising the lives of the party. For the first portion of this service, the "General Palmer" was selected, whose commander, Captain Simpson, had displayed so much energy and intelligence in the search for the remains of Mr. Kennedy's exploring expedition, and the "Pioneer," a vessel of 142 tons, was chartered by the Government, and placed at his disposal.

5. In their passage through the Straits, the "Pioneer" parted company with the "General Palmer," and, unfortunately, was totally wrecked. Captain

Simpson proceeded on to Port Essington, where he remained four or five days, and appears to have made every possible inquiry, but without success.

6. The conduct of the overland expedition was in the May following entrusted to Mr. Roderick Mitchell, the Crown Commissioner of the Maranoa district, situated in the neighbourhood of the place of Leichhardt's final departure. After some unavoidable delay in the selection of proper equipments, Mr. Mitchell found it necessary in September last to proceed to Sydney, and in his passage hither was unfortunately drowned.

7. The service was then undertaken by Mr. Hovenden Hely, who accompanied Leichhardt in one of his previous explorations. Mr. Hely started on his journey on the 1st instant, with a party consisting of six Europeans besides himself, two aboriginal natives, and a half-caste boy, with fifteen horses, fifteen mules, and provisions for twelve months.

8. I confess that I consented with much reluctance to authorize the departure of this last expedition. The fatal termination of Mr. Kennedy's expedition,—the wreck of the vessel sent to Port Essington,—and the melancholy death of Mr. Roderick Mitchell,—all combined to make me look with apprehension to the result of any further efforts to explore the interior of the country; and, on the other hand, I felt that I had no right to let my own feelings stand in the way of the strong desire of the Legislative Council, and of the public generally, that every practicable step should be taken to ascertain Dr. Leichhardt's fate; and I therefore sanctioned the departure of Mr. Hely's party, with such equipment and instructions as I trust will secure it from any unnecessary risks, and ensure its safe return to the colony.

Nov. 26, 1851.

I have, &c.

The Right Hon. Earl Grey, &c. &c &c.

(Signed) C. A. FITZROY.

Enclosure in No. 14.

Encl. in No. 14.

SIR, Colonial Secretary's Office, Sydney, November 26, 1851.

I DO myself the honour to acknowledge the receipt of your letter of the 15th instant, relative to the party to be despatched to endeavour to obtain intelligence respecting Dr. Leichhardt from the aboriginal natives frequenting the earlier parts of his exploration.

2. In reply, I am to inform you that the Governor-General approves of the arrangements you have made towards forming your party, and their equipment.

3. His Excellency also approves of your proceeding with your party by steamer to Moreton Bay, as suggested.

4. You will start on the expedition from the Condamine for Peak Range, viâ the Dawson, and on arriving there you will ascertain whether any letters have been left by Dr. Leichhardt indicating his intended route. If you should discover any such letters, you will follow the track of the expedition; but if there should be no indications of Dr. Leichhardt's having visited that locality, you will, as proposed, take a south-west course from the Peak Downs to endeavour to fall in with the track of that gentleman from the FitzRoy Downs, which, in the event of your being successful in finding, you will follow.

5. You will, however, clearly understand, that in endeavouring to fulfil your instructions it is not the intention or the wish of the Government that you should pursue your journey so far as to jeopardize the lives of your party; but, on the contrary, that you should take every precaution to enable you to conduct it back in safety to the colony, without subjecting it to any unnecessary risks.

6. I am to request that you will make arrangements to have the mules brought to Newcastle in time to meet the Moreton Bay steamer, by which you propose to forward them; and you should communicate with the Deputy Governor of the Australian Agricultural Company, informing him when the mules will be required, and when you will take delivery of them.

I have, &c.

Hovenden Hely, Esq., Sydney.

(Signed) E. DEAS THOMSON.

NEW SOUTH WALES.

No. 15.

No. 15.

Extract of a Despatch from Governor-General Sir C. A. FitzRoy to Earl Grey, dated Government House, Sydney, June 17, 1852 (received November 20, 1852).

(No. 89.)

"I have the honour to forward herewith the annual reports by the Commissioners of Crown Lands on the state of the aborigines of this country for the year 1851."

Extracts from Reports of Crown Lands Commissioners relative to Aborigines.

Extract from Mr. Commissioner Manning's Report, dated Crown Land Office, Cooma, March 23, 1852.

"The two reserves made in this district for the exclusive use of the aboriginal natives have never been occupied. The isolation of these spots would prevent their becoming places of resort, as it is only in winter, as before stated, that they care to congregate, and that in the hope of their deriving some benefit from their connexion with Europeans."

Extract from Mr. Commissioner Beckham's Annual Report upon the State of the Aborigines in the Lachlan District, dated Crown Commissioner's Office, Binalong, December 31, 1851.

"1st. During the last twelve months I have taken every opportunity of making known to the aborigines that tracts of land have been set apart for their especial use, but I do not think there is any prospect of the natives availing themselves of those reserves until such time as some further inducement is held out to them to do so; and I would beg leave to suggest that Government establishments should be formed upon the reserves alluded to, under the superintendence of a resident protector or overseer, which, I think, would induce the natives to locate upon those lands, and eventually bring them into a state of civilisation.

2d. The reserves appointed by the Government for the especial use of the aborigines in this district remain in the same state as when first marked out."

Extract from Mr. Commissioner Durbin's Report, dated Crown Lands Office, Liverpool Plains, January 9, 1852.

"1st. The reserve at Tamworth is constantly frequented by the aborigines, being a convenient and eligible place for a camping ground when frequenting the township. Neither food nor clothing have been issued to the aborigines at this reserve during the last year, with the exception of a few blankets to those natives who have been serviceable to my department.

2d. The reserve at the Broadwater is still frequented by the tribes in that neighbourhood, it being a favourite resort of the natives, from the abundance of fish in the river at that point. Neither food nor clothing have been issued at this reserve."

Extract from Mr. Commissioner Bligh's Report, dated Crown Land Office, Gwydir, January 23, 1852.

"With reference to the instructions conveyed by your circular letter, No. 209, of 16th February 1850, I have the honour to inform you, that the native reserves in this district have not yet been brought into actual use, and are not resorted to by the aborigines, except so far as they may casually wander over them, matters remaining in this respect precisely as at the date of my last report."

Extract from Mr. Commissioner Massie's Report, dated Crown Lands Office, Annadale, January 10, 1852.

"With regard to the reserves for the use of the aborigines, I have, in compliance with the instructions contained in your letter of the 17th July last, made three of 350 acres each, in every way calculated to forward the object in view, as they embrace the best cultivation ground, good water, and, in short, every essential requisite for the permanent location of the aborigines, in case they should feel disposed to forget their migratory habits. I have still two more to make, which I shall take the earliest opportunity of doing, consistently with my other duties."

Extract from Mr. Commissioner Fry's Report, dated Crown Lands Office, Clarence River, January 9, 1852.

"To the tribes frequenting its vicinity I have pointed out the lands reserved for their use, and endeavoured to explain to them the intentions of the Government with respect to its application; but, as a matter of course, it will be impossible for them to avail

themselves of it until it is placed under European supervision, to direct their labours, and furnish them with implements."

No. 16.

EXTRACT of a Despatch from Governor-General Sir C. A. FitzRoy to the Right Hon. Sir John S. Pakington, dated Government House, Sydney, July 21, 1852 (received December 27, 1852).

(No. 111.)

"I HAVE the honour to forward herewith a few printed copies of certain statistical returns of this colony from 1837 to 1851, which have been compiled by the Colonial Secretary from official records in his office, and which are in continuation of those transmitted in my Despatch, No. 134, of 24th July last."

Enclosure in No. 16.

EXTRACT FROM THE STATISTICS OF NEW SOUTH WALES.

(AGRICULTURE.)

RETURN showing the Quantity of Land in Cultivation, and the Produce of the same, (exclusive of Gardens and Orchards,) in the Colony of New South Wales, from the Year 1837 to 1851 inclusive.

Year.	CROPS.									
	Wheat.	Maize.	Barley.	Oats.	Rye.	Millet.	Potatoes.	Tobacco.	Sown Grasses, Oats, Wheat, and Barley for Hay.	Total Number of Acres in Crop.
	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	Acres.	
1837	59,975	18,381	2,551	3,893	493	80	1,165	533	5,054	92,125
1838	47,977	25,023	2,922	3,745	429	39	1,768	921	9,939	92,763
1839	48,211	22,026	3,480	6,713	483	46	965	424	12,534	94,882
1840	72,193	24,966	4,844	4,633	609	115	2,444	381	12,721	122,906
1841	56,903	24,922	5,070	4,607	490	47	3,095	308	14,807	110,249
1842	62,756	27,256	4,559	1,885	487	99	3,755	215	17,743	118,755
1843	73,409	28,984	4,694	1,392	514	42	3,803	652	20,095	133,585
1844	74,984	20,652	5,517	2,068	359	41	4,297	869	19,619	128,406
1845	76,428	25,296	8,761	1,292	330	36	3,060	483	22,551	138,237
1846	73,108	31,647	7,262	2,460	177	81	3,397	228	32,674	151,034
1847	63,365	27,103	4,798	2,073	310	82	2,912	67	27,888	128,598
1848	67,801	20,220	5,954	4,252	167	14	3,197	201	21,693	123,499
1849	66,459	23,316	7,741	2,809	203	18	3,138	458	31,664	135,806
1850	70,720	23,170	7,576	2,717	293	42	4,236	510	35,383	144,647
1851	82,110	25,017	6,725	2,470	245	54	4,079	731	30,626	152,057

Year.	PRODUCE.								
	Wheat.	Maize.	Barley.	Oats.	Rye.	Millet.	Potatoes.	Tobacco.	Hay
	Bushels.	Bushels	Bushels.	Bushels.	Bushels.	Bushels.	Tons.	Cwt.	Tons.
1837	692,620	632,155	51,447	17,119	6,753	695	2,102	2,034	5,627
1838	469,140	556,268	32,103	13,416	4,878	353	3,496	4,952	6,960
1839	802,540	525,507	66,033	27,788	7,008	283	2,601	2,509	25,923
1840	1,066,394	777,947	96,389	39,270	8,863	3,338	10,750	4,300	21,329
1841	784,936	502,603	80,787	25,379	6,507	1,072	7,407	2,570	16,275
1842	798,982	588,774	68,742	18,221	4,451	1,201	6,565	2,004	16,322
1843	896,185	717,758	70,502	21,479	5,145	410	9,459	6,088	25,113
1844	1,170,513	572,567	92,495	26,126	4,475	477	12,134	6,347	24,860
1845	976,365	497,142	136,118	16,825	4,101	775	8,768	3,985	18,975
1846	1,075,804	867,070	146,098	30,927	2,250	1,909	9,299	2,087	33,451
1847	678,072	722,074	58 521	14,346	1,120	778	6,985	725	16,281
1848	1,118,654	258,412	108,816	37,866	2,386	158	7,614	3,059	27,172
1849	1,401,063	276,406	115,379	49,656	2,959	134	8,300	4,238	31,914
1850	921,582	457,102	124,625	53,313	5,529	848	9.400	4,923	44,762
1851	1,407,465	717,053	133,944	49,069	4,891	731	13,644	12,530	36,605

From 1837 to 1841, the Land in Cultivation beyond the Settled District is not included.

Colonial Secretary's Office.
Sydney, June 1, 1852.

(Signed) E. DEAS THOMSON,
Colonial Secretary.

NEW SOUTH WALES.

(LAND SALES.)

RETURN of the Amounts recived from the Sale of Crown Lands in the Colony of New South Wales, from the Year 1837 to 1851 inclusive.

Year.	Amount.						Total Amount.		
	General Revenue.			Territorial Revenue.					
	£	s.	d.	£	s.	d.	£	s.	d.
1837	-	-	-	116,474	18	5	116,474	18	5
1838	-	-	-	79,130	6	10	79,130	6	10
1839	-	-	-	92,968	1	9	92,968	1	9
1840	-	-	-	97,498	10	11	97,498	10	11
1841	-	-	-	19,235	15	7	19,235	15	7
1842	-	-	-	11,844	17	8	11,844	17	8
1843	-	-	-	5,311	2	0	5,311	2	0
1844	-	-	-	6,745	14	8	6,745	14	8
1845	1,756	3	4	9,807	10	6	11,563	13	10
1846	3,385	10	0	7,864	9	3	11,249	19	3
1847	1,800	0	0	8,129	19	2	2,929	19	2
1848	600	0	0	7,024	6	6	7,624	6	6
1849	7,073	6	0	13,040	6	3	20,113	12	3
1850	11,733	0	0	22,024	6	11	33,757	6	11
1851	21,369	10	5	43,056	7	1	64,425	17	6

Colonial Secretary's Office,
Sydney, June 1, 1852.

E. DEAS THOMSON,
Colonial Secretary.

No. 17.

No. 17.

COPY of a DESPATCH from Governor-General Sir C. A. FITZROY to the Right Hon. Sir JOHN S. PAKINGTON.

(No. 113.) Government House, Sydney, July 23, 1852.
(Received December 27, 1852.)

May 12, 1852. SIR, (Answered, No. 27, February 7, 1853, page 67.)

I HAVE the honour to enclose, for your perusal, a copy of the Minute of proceedings of my Executive Council on certain points hitherto undetermined, connected with the reserves for public purposes to be made from the pastoral leases about to be issued in this colony under Her Majesty's Order in Council of 9th March 1847.

2. In order to enable the licensed occupant of a pastoral run to secure any improvements effected by him, the Order in Council just referred to confers on him a pre-emptive right of purchase over all the land included in the lease, except such as it may be deemed necessary to reserve for public purposes; but a very numerous class of cases is found to exist in which the improvements effected by the licensed occupant, and which the Government is pledged to secure to him, are, nevertheless, situated in town or village reserves, which, out of regard for the public interests, must be withheld from the pastoral lease.

3. The only practicable mode of overcoming this difficulty appears to be that suggested by the Executive Council, namely, after entirely excluding the reserve from the pastoral lease, to apply the principle of Her Majesty's subsequent Order in Council of 19th June 1850, and to issue to the licenser a lease for a year of the land containing the valuable improvements only, with a pre-emptive right over the same.

*4. But by the terms of your predecessor's Despatch, No. 97, of the 25th July 1850, the application of the latter Order in Council is restricted to certain classes of cases therein named; that is to say,—

1. The case of lands held for other than pastoral purposes;
2. The case of pastoral lands brought within the settled districts by the operation of the Order in Council of 1847; and—
3. The case of certain allotments of land in the town of Parramatta.

5. With the advice of my Executive Council, I have, therefore, the honour to request that I may be permitted to apply the terms of the Order in Council of June 1850 to the class of cases above explained.

I have, &c.
(Signed) C. A. FITZROY.

The Right Hon. Sir J. S. Pakington,
&c. &c. &c.

* Page 91 of Part I. of Papers relative to Crown Lands in the Australian Colonies, presented to Parliament by Her Majesty's Command, 14th August 1850.

Enclosure in No. 17.

Extract from Minute, No. 52/17, dated 12th May 1852.

The Council resume the consideration of certain points hitherto undetermined, connected with the formation of reserves out of pastoral runs beyond the settled districts. On the 17th November last the Council advised the adoption of a regulation having reference to pastoral runs, out of which reserves were for the first time about to be made, the general effect of which was, to enable the licensed occupant of the run to defeat the intended reserve, by exercising, within a limited time, and on certain conditions, in respect of the lands included in such proposed reserves, the pre-emption right conferred on him by Her Majesty's Order in Council of 9th March 1847. This regulation was, however, clearly inapplicable to those cases in which town reserves had already been laid out. The Council, therefore, proceed to consider, first, what would be the most advisable way of dealing with the latter class of cases; and, secondly, to advise a practical solution of certain suggested difficulties arising out of the bearing of reserves generally on the measurement of the runs, and on the assessment of their grazing capabilities.

2. After a very mature deliberation, the Council record their opinion, that it would tend to facilitate the proper issue of the leases if it were determined absolutely to exclude from the lease every reserve the formation of which has been or shall before the preparation of the lease be determined on under competent authority; and they advise accordingly. In the case of the town reserves just alluded to, the reservation must, out of regard to the public interests, be indefeasible, except as to those portions of the reserve on which valuable improvements have been effected by the licensed occupant; and it is clear, therefore, that they should be excluded from the leases, and a corresponding allowance made in the assessment of the grazing capabilities. With respect to the general class of reserves referred to in the Council's Minute of 17th November last, if the licensed occupant fails to exercise his pre-emptive right within the stipulated time the reservation thereby becomes indefeasible. On the other hand, if he exercise that right, either wholly or partially, he becomes entitled to the fee-simple of the whole or the part (as the case may be) of the land so purchased by him, whilst the reservation of the remainder, if only a part have been purchased, becomes absolute. In any case, therefore, the whole of the land included in any approved reserve should be at once excluded from the description intended to be inserted in the lease.

3. Recurring, in the next place, to the class of cases already adverted to, where the occupants of pastoral runs have effected improvements on lands which it is found necessary on public grounds to reserve as townships, or as suburban allotments for the necessary support of future towns, the Council consider it to be the duty of the Government, on every principle of justice not less than of expediency, to secure to persons so situated the lands on which they have effected valuable improvements during their authorized occupation. To effect this object, the most advisable course appears to be, in the first instance, absolutely to exclude such reserves from the pastoral lease; by which means the pre-emptive right conferred on the licensed occupant by the Order in Council of 1847 will, in regard to the land so reserved, be defeated, and then to apply the principle of Her Majesty's subsequent Order of June 1850, by issuing to the occupant a lease for a year of so much of the land as contains his valuable improvements, in order that he may be enabled to secure those improvements by the purchase of such land, without competition, on the following terms:—

(1.) In the case of town lots, the licensed occupant should be permitted to purchase any block or number of the blocks of the township on which his improvements may be situated at the minimum rate of town lots, namely, 8*l.* per acre. Should he be desirous, in any case, of purchasing less than a block, then the purchase must be made in so many allotments, according to the approved plan of the town.

(2.) In the case of suburban lands, the licensed occupant will in like manner be at liberty to purchase any allotments containing valuable improvements at their value in an unimproved state, to be determined in the manner prescribed in Her Majesty's Order in Council of 1847. The lease to be granted to the licensed occupant for the above purpose should not, on any consideration, be renewed. Should he fail, during the currency of the lease, to exercise his pre-emptive right to be thereby conferred, the land, whether town or suburban, will be withdrawn from his holding, and will be liable to be dealt with as other vacant land, and no claim for compensation for loss thereby sustained will be recognized by the Government.

4. As by the terms of the Despatch from the Secretary of State which accompanied Her Majesty's Order in Council of June 1850 the application of that Order is restricted to the three classes of cases named by his Lordship, it will be necessary to procure the sanction of Her Majesty's Government to the arrangement now proposed, and the Council recommend that the necessary application should be made to the Secretary of State for that purpose, and that in the meantime such instructions should be given as will ensure that all improved lands of the character referred to in this Minute shall be withheld from sale.

(Signed) MICHAEL FITZPATRICK,
Clerk of the Council.

NEW SOUTH WALES.

No. 18.

No. 18.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to the Right Hon. Sir John S. Pakington.

(No. 124.) Government House, Sydney, August 4, 1852.
(Received December 27, 1852.)

Sir,

I have the honour to acknowledge the receipt of your Despatch, No. 12, of the 26th April last, transmitting to me the copy of a letter from Mr. Younghusband, requesting Her Majesty's Government to grant him a lease of some coal mines on the Hunter River in this colony, and enclosing a copy of the answer returned to Mr. Younghusband, with instructions that I should furnish you with a report showing the manner in which the different coal mines belonging to the Government are at present worked.

2. In reply, I have the honour to state that Mr. Younghusband must have been acting under some most extraordinary misapprehension or misinformation in stating that there were coal mines on the River Hunter which are retained in the hands of the Government, and worked by convicts for its benefit.

3. There are no coal mines whatever in this colony the property of the Government. The whole of the land on the Hunter River where coal exists is the property of private individuals; and the principal coal mine now in operation (situated near the town of Newcastle at the mouth of the river), and from which the principal supply of coal is derived, belongs to the Australian Agricultural Company, and it is scarcely necessary to add that no convicts are employed in it.

4. The annexed return, extracted from the Blue Book for 1851, will show the number of coal mines in this colony, the localities where they are situated, and the quantity and value of the coal produced from each in the years 1850 and 1851.

I have, &c.

The Right Hon. Sir J. S. Pakington, &c. &c. &c.

(Signed) C. A. FITZROY.

Encl. in No. 18.

Enclosure in No. 18.

Return of the Number of Coal Mines in the Colony of New South Wales, showing the Quantity of Coal produced, and the Value of the same, for the Years 1850 and 1851.

Mines.	1850.		1851.	
	Quantity.	Value.	Quantity.	Value.
Newcastle.	*Tons.*	£	*Tons.*	£
1. Australian Agricultural Company	45,084	14,615	45,642	17,894
2. Ebenezer Mine, Lake Macquarie	Not worked.	- - -	Not worked.	—
3. Burwood Mine - -	6,602	2,311	9,338	3,735
4. Ditto - - - -	- - -	- - -	200	80
5. Hexham Mine - -	700	280	Not worked.	—
Maitland.				
6. Maitland - - -	5,500	1,719	3,500	1,050
7. Ditto - - - -	5,200	1,625	7,360	2,208
8. Morpeth - - -	7,730	2,705	250	75
Moreton Bay.				
9. Brisbane - - -	400	120	1,320	504
Wollongong.				
10. Mount Keera - - -	No return.	- - -	Not stated.	—
Totals - -	71,216	23,375	67,610	25,546

No. 19.

Copy of a DESPATCH from Governor-General Sir C. A. FitzRoy to the Right Hon. Sir John S. Pakington.

(No. 185.) Government House, Sydney, November 25, 1852.

Sir, (Received March 18, 1853.)

I am in receipt of your Despatch, No. 30,* of 1st July last, conveying your approval of the steps taken by me for endeavouring to ascertain the fate of Leichhardt and his party, as reported in my Despatch, No. 22,* of the 29th January last, and it is now my duty to enclose the copy of a letter addressed by Mr. Hovenden Hely to the Colonial Secretary, reporting his return from the expedition to the north-western interior. I regret that the result of this expedition has not been more decisive and satisfactory, although I fear it leaves little doubt that Dr. Leichhardt and his party were killed by the aborigines shortly after they left the colony.

* Page 75.

* Page 54.

July 22, 1852.

I have, &c.

The Right Hon. Sir J. S. Pakington, &c. &c. &c. (Signed) C. A. FITZROY.

Enclosure in No. 19.

Copy of a Letter from Hovenden Hely Esq. to the Colonial Secretary.

Sir, Camp at Surat, Balonne River, July 22, 1852.

I do myself the honour to inform you of my return with my party from our late journey to the north-western interior, for the purpose of gaining intelligence from the natives frequenting the earlier parts of Dr. Leichhardt's exploration, relative to the fate of that gentleman and his companions, and to lay before you, for the information of his Excellency the Governor-General, an account of my journey and its results.

In accordance with your instructions directing me to proceed to Peak Range, viâ the Dawson, and thence to the westward in search of Sir Thomas Mitchell's track, in hopes of thereby falling in with that of Dr. Leichhardt, I had left Darling Downs, and was proceeding on that route, when, being encamped in the vicinity of Dog-wood Creek, I received an express communication from Mr. Commissioner Whitty, of the Maranoa district, to the effect that a man named Walker, who nad been out collecting cattle in the Mount Abundance country, had just come into Surat, bringing in a report received by him from the natives, of the murder of a party of white men, with horses, &c., on a creek distant ten days' journey from Mouut Abundance, and that some of these natives had seen the remains, and had offered to guide him thereto. Under these circumstances I deemed it advisable at once to change my route, and proceed to this place, and test the truth of the rumour.

Of my proceedings after this,—of having engaged Walker, in order, through him, to procure the services (if possible) of the two natives,—and of my having started from this place, and been compelled to return from Mount Bindango by the scarcity of water,—and of having despatched Captain Anderson, with Walker and another man, to bring out more rations and other mules, and if possible to procure two other natives as guides or interpreters,—I have already informed you by my letters, dated Surat, 22d April, and Uckabilla, May 8th. I shall therefore proceed to a detail of my proceedings from the latter date up to the period of my return here on the 20th instant.

A heavy fall of rain immediately after his departure delayed the return of Captain Anderson for a week, and I was in hopes that it had extended so far to the north-west as to fill all the creeks and watercourses in my probable route. In this expectation, however, I was disappointed, as I afterwards found that the rain had not extended beyond Mount Bindango, the very spot from which I had been previously driven back.

When Captain Anderson returned, bringing with him extra mules and rations, I found that Walker had succeeded in obtaining the services of two natives; one a "Combo," a leading man amongst the Balonne and Mount Abundance tribes, as interpreter, and the other a "Coppi," a young man who had just come into stations for the first time, from a long distance to the north-west, and who professed to know all about the murder of the white men, and said that he had seen the very place, and the remains of bones, guns, saddles, &c.; that it was twelve days' journey, and on a creek this side of Bunderabrilla. They had both stipulated that they were to receive rations and ride on horseback, and on the return of the party be rewarded each with a tomahawk, shirt, and tobacco.

I accordingly once more left Uckabilla, and proceeded towards Mount Abandance; but after one day's journey I was again detained for three days by another heavy fall of rain, which made the ground too heavy for the loaded mules to travel, but I finally reached Mount Abundance on the 29th May.

It is here worthy of remark, as proving that the natives must from the very first have in some manner known of every movement of this party which they afterwards killed,

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that, in riding across the FitzRoy Downs, and in sight of the Grafton Range, "Coppi" informed me, through the medium of "Combo," (the former not knowing one word of English,) "that the white fellows whose remains we were going to see had not come this "way (meaning the way we were pursuing), but had left the river, and gone up the "Yeulba Creek to those hills, (pointing to the Grafton Range,) and thence across the "downs to Mount Abundance." This was voluntary information on his part, as I was riding a-head at the time, not speaking to either of them, and I know it to be correct, having heard on Darling Downs that Leichhardt had run up the Horse Track Creek (Yeulba) to the Grafton Range, and thence due west to Mr. Macpherson's station at Mount Abundance, whence he took his final departure.

On the following day we remained in camp, in order to mend hobbles, of which nearly every pair had been broken during the late wet weather, and the next day made our final start, under the guidance of "Coppi," who took the same direction round to the northward of Mount Bindango, and on the third day we encamped on the Ambey or Tina Montil Creek. Here the two blacks began to show signs of having gone far enough, telling us that there was no more water between us and the Culba, and that black fellows would kill us, and so forth. I could very easily believe the former statement, as there had evidently been no rain at all in this direction, and we were then encamped on a small isolated waterhole in the creek, to which we had that day been compelled to retrace our steps, having found that another creek farther on was perfectly dry. However, knowing that we could not be at most farther than thirty-five miles from Sir Thomas Mitchell's old depôt camp on the Maranoa, I determined to reach that, even if we should have to pass one night without water, first determining to leave the party in camp for one day, and reconnoitre. This I did, but unsuccessfully; so we all moved on the next day; travelled thirty miles, found every creek and watercourse dry and overgrown with grass and weeds; encamped without water, and finally, on the 5th June, reached the Maranoa, and encamped about a quarter of a mile below the depôt, on a reach described by Sir Thomas as being full of water and large fish, but where we now saw nothing but a deep dry, sandy bed, full of long reeds, with a small shallow pool of brackish water, out of which, to avoid dirt and sediment, the buckets had to be filled by means of a pint pot.

Much to my surprise, "Coppi" now said that we were near the place, and going up to the old depôt, whither I and Mr. Drysdale accompanied him, he commenced picking up sheep's bones, old pieces of powder canisters, &c., showing them to us. I knew very well that all these things had been thrown about and left here by Sir Thomas Mitchell's party; but I made signs to him to inquire where were the white men's bones, horses' bones, guns, saddles, &c. He told me by signs that everything had been thrown into the water and carried away in a flood. However, in the absence of Old Billy ("Combo"), whom I had sent with Walker in search of a stray mule, I could make nothing of him, so returned to the camp. He had, on first joining us, given a very clear account of the whole affair, saying that he was only a young boy when it happened (he being now apparently about sixteen years old). He told us how the blacks had followed the party for some days, and at last surprised them all when asleep; that they had driven off all the horses and mules, and killed them; that only one shot had been fired by the whites, which killed one black fellow, and that some of the bullocks had escaped, and were now running about higher up the Culba, and had also assigned as a reason for the murder the ill-treatment of some gins by the two black fellows attached to the white party, when riding about the bush in search of the horses and bullocks; and he further said, that one of these blacks had large bushy beard and whiskers, like my man Brown, and the other smooth face like him. This I also know to be correct. One of Leichhard's blacks, "Flash Billy," whose brother is now with me, having had a very large beard, and the other, "Wommai," as I knew myself, was almost a boy, without either beard or whiskers.

Walker and "Combo," with another (Mr. Edgar), being away all night in search of this mule, it was necessary to reduce each watch from two men to one, giving each one hour and a half. The night of the 6th was very dark, and our guide "Coppi" escaped. I had had not the slightest idea that by himself he would have attempted it, or I should have taken measures to prevent his doing so. I very much suspected that he had arranged with the other that he too should run away, and meet him at some appointed place; and was rather surprised, next day, when they returned with the mule, to see Billy with them. He had, at any rate, got the same story from "Coppi," and we were, consequently, for the next five days, examining the river side, the depôt camp, and every angle and bend in the river, for some miles both up and down, to try and find some indication of Leichhardt's having been there; but nothing could we find,—not even a marked tree,—to show that he had gone that way My blacks, indeed, thought that in some places they could see tracks, as if a large lot of cattle and horses had been driven either up or down the river, but these were only partial, and could not be kept by them for any distance. On the fifth day Billy told Walker that "Coppi" had only been telling us "gammon" about this being the spot; that it was a good way further; that we should leave the Culba, and cross a range to another large creek, the country of the "Niemen" or Pisant Blacks, who were the people that had killed the white men. He said that "Coppi" was afraid to take this white party out amongst his own people, as we would shoot both him and them when we saw the bones, and that he had consequently determined to tell

us a lie and leave us, but that he (Billy) would go with us and talk to the blacks for us, provided we made good haste, as he was afraid we would all be killed if we delayed. I accordingly promised him a double-barrelled gun, knife, tomahawk, &c., on our return to Surat, as a reward for his services, if we could fall in with natives who would lead us to the desired spot.

The 14th and 15th June we travelled up the Maranoa, being fortunate enough to find water in the bed of the river at which to encamp on both days, in lat. 26° 4′ 0″ S. I thought it advisable to leave the party, and find water ahead, before again moving it. This I did, after following the course of the river for some miles, though in a very small and dirty pool. Moved on here next day, and, leaving them to form the camp, went on again with Walker, Brown, and Billy to look for more water, and also in hopes of falling in with natives. During this ride of reconnaissance we saw fresh cattle tracks, apparently of not more than four or six head of very large bullocks. These tracks were not more than a day or two old, and Billy said belonged to the cattle which had got away from the blacks when they killed the white men.

Finding water, I moved the camp on next day, and on the 19th left the river, and followed a tributary from the westward, in which, at about ten miles, we found water and encamped. Here was the first native camp we had seen, apparently of one black fellow and his gin. After encamping, I sent Walker and Billy out in search of them. They returned just after sunset with a "picaninny," a boy about ten years old, who it appeared had been there with an old gin, and who said he knew all about the murder of the white men, and volunteered to come with us.

Next morning, having the boy mounted on a led horse, we started under his guidance, but it soon became apparent that he knew nothing of the direction we ought to take to reach this place, stated by him to be five days' journey distant. On questioning him, through old Billy, he said that he had never been there, but that he had heard the story from all the black fellows. He told us the same as "Coppi" had formerly; and even on this very morning, when our horses and mules were driven up to the camp in hobbles, he shouted and laughed, and repeatedly said something in the Coogie language, repeating the word "Bunderabulla;" and on my asking Billy what he was saying, he told me it was "that the mules and horses were jumping in the hobbles in the same way that the black "fellows described those to have done which they had driven off and killed."

However, I followed the same tributary for some distance to the north-west, and then left it, and crossed another deep creek running to the north-west. Seeing a fire, as of a gin burning the reeds in the bed of the creek, I sent Billy with Walker down to endeavour to obtain some information from her. They returned, accompanied by a gin with a child on her shoulders. She came towards us without much apparent trepidation, and a long conversation ensued between her and Billy, the substance of which was, that the white men were killed on a creek this side of the Bunderabulla, to which she pointed, W.N.W.; that it was seven days' journey; and then pointing to saddles, guns, pots, &c., said that plenty of those were there. She pointed N.W. as the direction we should take, and told Billy there was plenty of water.

Leaving her, we proceeded in a general N.W. course for about five miles, gradually ascending a scrubby pine ridge, the creek running from N.W. away to S. and S.W. Crossing this ridge, we descended a grassy valley, which led us to a creek or river in very fine open forest country, coming from N. and N.E., and running here E. to W. The broad sandy bed was, however, perfectly dry, and though we followed every bend and turn for upwards of sixteen miles in a general N.W. course, not one drop could we find. Long after nightfall we fortunately fell in without about two buckets-full of water in a hole in a rock, upon which we encamped, having enough to make some tea for ourselves, though the horses and mules could get none; this deprivation, however, being in some measure alleviated by the abundance of green feed, particularly wild carrots and geranium, which was springing in all directions.

On the 21st, the horses not having wandered far off, I went down the river, attended by Brown and old Billy, to look for water. This we found, after having followed its course about eight miles, in a small deep pool. To this I removed the camp, and here we were detained next day by heavy rain, which, however, had no effect on the sandy bed of the river. For the next two days I had to reconnoitre for water before moving the party.

On the 25th, leaving the party at camp XIX., in lat. 25° 38′ 23″ S., I again went out, attended by Walker, Brown, and Billy, to look for water, and also in hopes of meeting some other natives from whom we might obtain intelligence. The river, which had for the last twenty miles been gradually taking a S.W. course, here turned almost due south, and I accordingly took a west course, in hopes of falling in with some other creek leading in the direction I wished for. After riding some miles we came upon a broad deep creek, dry, but which by the flood-marks we could tell ran from W. to E. and S.E., apparently to join the river we had left, and which I now assumed from its course and position to be the Warreggi. Riding up this for some distance, we saw a native fire, and hastening up to it saw a wretched looking infant sitting on the ground, with no one else near it. I left Brown to watch there, while we searched the bush round about. Could find no natives, and returning to the fire, saw, perched in a tree over Brown's head, the mother of the child. She was very frightened, but on Billy speaking to her in Coogi, and assuring her

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we meant no harm, she came down. A long conversation then ensued, and, as the interpreter informed me, the substance of it was, that she knew all about the murder of these white men, saying that it was four days' journey thence. She also pointed out guns, saddles, &c., as having been scattered about. We accompanied her to her camp on the other side of the creek, where was a very old withered gin. On our coming up, and before the first one spoke, the old woman corroborated the story, saying that the creek upon which we now were was the one upon which the white men were killed; that the name of the "touri" or place was "Ballour," and of the creek "Berando," and that of the river behind us "Bialing." The old woman told us that she would remain where she was until next day, and that when we came up she would go with us and guide us to some black fellows, who would show us the place. We then returned to camp.

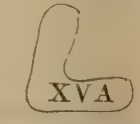
Next day the whole party moved on, and in order that these two gins might not be alarmed at the sight of so many men and animals, I sent Walker and Billy ahead to keep them there until we should get up. On arriving at the creek, however, the gins were gone, nor were there any signs of the other two. Presuming that the gins had decamped, and that Walker had followed them, I halted the party on the other side of the creek to wait for his arrival. He did not come in till nearly 11 P.M., bringing the two women with him. He reported, that not finding them at the camp he had followed them. Billy tracked them many miles, and they at length came up with them in a pine scrub.

I now told them that they must stay with us, and take us to the place we were looking for; that I would give them plenty to eat, and a tomahawk each when we should have seen these remains. They agreed to go, and on the following morning we started under their guidance. We had not gone many miles when the old gin suddenly told us, "that she would take us a short cut to the spot where the white men were killed; that it had taken them four days to run up a creek that way (pointing east), but that by going through some brigalow we could make a very short cut, and that by sunset we should reach the very place." She accordingly took us a general W.N.W. course, through some brigalow and pine scrubs, and just before sunset brought us up to a water-hole, which I at first took to be the head of the creek we had left in the morning, especially as we had been ascending ridges all day, and the barometer showed that we had an increased altitude of nine hundred feet.

Here the old gin sat down, and told us this was the spot. There were no relics to be seen, and on inquiring of her where such were, she replied, that "big water carried them all away." I was far from satisfied with this reply, but as we had made a long stage of about 16 miles, over very heavy sandy country, I determined to encamp, and remain a day or two, if necessary, and examine the neighbourhood.

On the following morning, the 28th, I again spoke to those two gins, through the medium of the interpreter. The old woman still adhered to her story, and said that she knew this was the place, though she had never seen the remains, as the blackfellows would not allow any of the women to approach it, telling them "that whitemen's 'debil debil' always walked about." She again said that she had been there present at the murder, or rather, as the women and children always are in such cases, in the background; she even pointed to the ridges behind, as having been their position at the time;—that the blackfellows had followed these white men for many days;—that they were in countless numbers, like "niemen" (pointing to a large ant bed near her);—that they formed a very large circle, and gradually closed up upon the white camp;—that just at day dawn, all the white men being asleep, the blacks rushed on them, and speared them as they lay;—that only one white man, who was sleeping at some distance, awoke, and fired his gun once, shooting one blackfellow, but that he was immediately killed, and that the blackfellow who was wounded went away and died in the bush;—that previous to this the blacks had, in the early part of the night, driven away and killed all the horses and mules, and that they afterwards eat them, having a great feast; when they were very full, lying down and sleeping till again hungry;—that they also killed a few of the cattle, but that the rest got away from them;—that for a long time afterwards there were quart pots, pint pots, red shirts, axes, and other things in the blacks' camps, but that now they were all gone. She also assigned as a reason for this act, the ill usage of some gins by the two blackfellows attached to the party. She then told me that up that way (pointing east) was an old camp and marked tree of this party, and that away westward there was another. On my asking her "how it could be that they had been killed here, if they had a camp further on" she said that they had gone from the eastward camp to the westward, and thence returned and encamped at this water-hole.

I mounted my horse, and, attended by Walker and Brown, rode out to the eastward; found a creek running in that direction, and about ten miles down it found for the first time one of Leichhardt's marked camps. It was in an angle of the creek, now perfectly dry; there was the mark, thus,— the letters probably intended for 15th April; the tent poles and forks, the heavy saplings on which he had placed his packs (showing that the ground must have been very wet and damp); and even the forked sticks and cross-piece in front of the fire, on which they had most probably roasted part of a kangaroo, the bones of which were lying about. There was also in one place a large quantity of cattle dung, showing where the bullocks had been bedded; but



though Brown and Billy, who was also with me, looked carefully for tracks either coming to or departing from this camp, they could find none, the soil being as we had found it ever since we reached the Maranoa, loose and sandy. The most probable reason for our never having seen any of his camps before is, that at the time he left Mount Abundance the whole country was in a state of inundation; consequently he could travel in any direction, always sure of plenty of water, whereas it has been so scarce since I have been out that we have been compelled to follow watercourses, and even then have had to encamp mor than once without any.

Returning to the camp, we fell in with natives' tracks and followed them, and about sunset came up with an old gin with a child and two young girls of nine or ten years old. They were very frightened, but we called out as usual "ara-wabbe," which means in Coogi that we would not hurt them. They then came up to us, and the old woman told us that the white men were killed eight days' journey hence; that there were very large plains to cross, three days' journey, without water, &c.; but she also pointed to saddles, guns, &c. We brought them also to the camp, and found that during my absence they had secured another gin, who was passing near without perceiving them. We had now nine women and children in camp, whom I was determined to detain until I could find some of the black fellows; had I allowed the others to go, of course the blacks would soon leave the neighbourhood. I gave them all plenty of flour and sugar, and they were soon perfectly at home.

The gin who had been detained during my absence told me that the bones, &c., were to be seen at a place four days' journey away, and that her son, a "Coppi," was camped a short distance away; that she would in the morning go with me to his camp, and prevail upon him to accompany us to the spot, as he had seen the remains, &c., and knew all about the whole affair. Accordingly, at daylight on the 29th, I went on horseback with the same attendants as on the previous day, and taking also the old gin, who had volunteered, and one of the little girls. About four miles N.E. of our camp, and on the borders of a pine scrub, we found the blacks' camp. On going up to them, assuring them through Billy of our peaceable intentions, we saw two fine athletic young men, of which one was "Coppi," the other "Marri." They repeated the same story that we had so often heard before, pointing also to guns, &c.; said the place was three days' journey thence, and was due west, at least so they pointed. They agreed to come with us; they told us they were two of the "Niemens," but that it was other blacks who had killed the white men, whereas at Mount Abundance the natives accused the "Niemens." "Coppi" was a good countenanced man, but the other as villainous a looking scoundrel as I ever saw. I would have preferred taking the former alone, but they said they must both go.

I brought these back to the camp (XXI.), and prepared immediately for proceeding on our journey. We left at about half past one o'clock, leaving all the gins and children to go about their business. We travelled about ten miles in a general W.N.W. course, and encamped on a waterhole, or rather chain of ponds, in lat. 25° 30′ S., and long., by account, from lunar observations of Captain Anderson at Camp XVIII., 146° 35′ E. On the following morning I presented each of my guides with trousers and shirt, and gave them many promises of tomahawks and knives when they should have performed the service required of them. We again proceeded, under their guidance, W.N W., and in about five miles reached a large deep creek, half bank high, with water discoloured, as if from recent floods. This they informed me was called Alpomdulla Creek. The country here was magnificent, open forest, or rather plains, with clumps of apple tree, well grassed, and altogether the finest I have ever seen.

From this creek they turned off at a tangent, and much to my surprise led us all the day, until nearly sunset, in an E.N.E. and N.N.E. course, finally causing us to encamp on a very muddy waterhole.

During the first watch, Walker informed me that Billy had just told him these natives were leading us to the bones of black fellows, and not to the place where the white men had been murdered. On speaking to them about it, they said they were afraid to take us there, as they knew we would shoot them directly. I assured them that they were perfectly safe, and that so far from shooting them, I would reward them. Walker suggested to me the propriety of putting handcuffs on them, but this I would not listen to; and I also gave strict orders, that, should they get away in any of the watches, that no shot should be fired on them, even if they could not be re-captured. I had no authority to permit anything of the sort, and it would have been in the highest degree injudicious.

These two men had accompanied me of their own free will, and on my assurance of their safety; they did not consider themselves prisoners, but thought, no doubt, as they came so they might go; and I was convinced that if by fair means they would not show us that of which we were in search, force would be of no avail; and I determined rather to let them go if they felt so disposed, and stand my chance of finding others who might give me information, than attempt any restraint or threats with them. Had I used the latter,—had I tied them up and, threatened to shoot them if they did not lead me to this place,—they might have immediately denied all knowledge of it; and as I would not be justified in shooting them, I should then have had to let them go, with a very poor opinion of the courage of the white men.

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Our guides did not, however, desert us this night, but the next morning said they would take us to the place, but that it was now eight days' journey, W. by S. They accordingly led us about twelve miles, as we did not leave the camp until one p.m., in order to obtain the sun's meridian altitude, which gave our latitude 25° 21′ 0″ S. The direction we pursued to-day was to the north of west; and it was not until after the moon rose that we encamped on Alpomdulla Creek, much higher up than we had met it yesterday. The flood at this part of the creek had passed away, leaving only various small streams of muddy water meandering along the various channels it had formed for itself in the sandy bank.

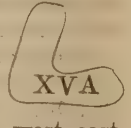
Here at length our two guides deserted us. They sneaked away as only black fellows can, during my own (the morning watch) and three of us standing intently watching their fire where they were one instant, and from which in another they were gone. Billy, who had been getting very uneasy for a day or so before, told me that these two natives were too much afraid of being shot to show us the bones; but that they had told him we must cross four creeks, then a large plain for three days, and then three more creeks before we should find the spot.

I determined, however, to proceed further up this creek, in hopes of falling in with some other natives from whom I might gain intelligence and perhaps a guide; followed it in a general north course for twelve or fourteen miles; saw neither natives nor tracks, and encamped.

We were now on the Nive or Nivelle of Sir Thomas Mitchell, much lower down than that gentleman had been. Our position was 25° 9′ 0″ S. latitude, and longitude by account from lunar observations 146° 29′ E., considerably to the south, and far to the west of the head of the Victoria; and yet when even more to the southward these guides had pointed to W. by S., as the situation of the creek upon which the whites were killed.

At 9 p.m. this night our interpreter deserted. This was a thing I, nor any body else who has the slightest knowledge of the natives, would never for an instant have dreamed of. We were now nearly three hundred miles from the nearest part of the Balonne, his own country; and the idea of his leaving us to go in by himself, and run the gauntlet of all the tribes in his route, I should have scouted as ridiculous; but it was nevertheless true. He had gone, and with him taken our best tomahawk, leaving in exchange some of his clothes. I could not help thinking that this had been done by him in pursuance of an arrangement entered into between him and the guides who had previously deserted. As Billy was known as one of the greatest scoundrels in the Mount Abundance country, and as the head and prime mover in all the murders and disturbances which had at last driven Mr. M'Pherson from the Fitz Roy Downs, I thought that he might perhaps have made a commencement by driving away our horses, &c., so I sent two men mounted, by the light of the moon, to drive them all up to the camp, where the watches kept them about until daylight.

No other course was now left open to me but to return at once to camp XXI., and endeavour to find the other camp of Leichhardt, of which the old gin had told me as being to the westward. We accordingly, on the 3d instant, retraced our steps, and arrived at this camp on the evening of the 5th. Here the party remained the following day, while I went out, attended by Edgar, Walker, and Brown, in search of this camp. Riding due west, I came upon a creek, from S.W. to N. and N.E., followed it down some miles, and at length crossed our own track to camp XXII., under the guidance of the two natives. Within a quarter of a mile of this I found, in an angle of the creek, the other camp marked L, of which she had told me. The same mark; large and heavy saplings for packs, tent poles, bullock dung, &c.; but no tracks; and the creek itself, with a shallow bed, dry, and overgrown with long grass and weeds. Even about the camp Brown could not see a track. I was now aware that it would be useless, or worse than useless, to remain any longer searching about for his tracks. We had been beyond this upwards of 45 miles—west, east, and north,—without seeing any, and I thought the wisest plan I could pursue would be to return to Surat with all speed, and, if possible, obtain another interpreter, and return, though not with the hope of gaining more information than I have hitherto obtained. In this matter I consulted some of my party, and their opinion coincided with my own, and all expressed their readiness to come out with me again. I was the more induced to pursue this course on accouut of the severe illness of one of my companions, Mr. Horsburgh, who had for some time past been seriously indisposed, and was daily growing worse.



I accordingly retraced my steps, and knowing exactly where I should find water, I regulated the stages accordingly, and arrived here on the 20th instant, exactly seventeen days from the date of our interpreter's desertion, and four months from the day we first loaded the mules to leave Darling Downs. For the last week Mr. Horsburgh has suffered much from an attack of acute rheumatism, having had to be lifted on and off his horse, raised up and laid down, and even assisted to walk a few steps. He is now, under the care of Mr. Drysdale, the surgeon, considerably better, but very weak and unable to travel.

On our return, I found that Billy was already here, having arrived on the 14th; thus making the journey in twelve days, or at the rate of nearly twenty-five miles per day. He tried to evade me; but I called to him as he was running off, and he unwillingly came. He excused himself by saying that he feared we should shoot him; then that he thought the blacks would kill us all, and so forth; but on my asking him if he were willing to come with me again, he said he would. He also told me, that those black fellows "too much gammon;" that they had taken us past the place, and would never show us; that they feared too much we were going to kill them in revenge; and then said that they had told him a fire had burned everything.

Of course I know it would be folly to believe all he says; but at the same time I am now fully convinced that the chances of success would be very dubious, even were I to return. I might find natives who would pretend to take us to the spot, and show us where Leichhardt was killed, and tell us that everything had been burned, or carried away in a flood, as the old woman has already done. She certainly may have told the truth, though I doubt it; but she could at all events show us, or tell us where to find, old camps of this very party. I am much disposed to believe that the natives, now that we have been amongst them, and fearing another visit, will put out of the way everything that has already not been destroyed, as they firmly believed, notwithstanding our assurances, that we intended shooting them in revenge for the death of our countrymen by their hands. Of the truth of the report I have not now the slightest doubt. The manner and cause of the murder has been told and corroborated in every particular by so many, that there can now be but one opinion on the matter.

After mature consideration, therefore, I have determined to return to Sydney with all despatch. The rations I have now remaining, that is, the flour, will barely suffice to carry me there, and in the event of going out again I had depended upon replenishing my stock here or at the neighbouring stations; but in consequence of the late floods at Moreton Bay the teams have been detained, and every establishment on the river is short of rations.

With regard to my own, I must observe, that I had in the outset calculated the quantity with the greatest care, as a limited ration of 5 lbs. flour and 2½ lbs. meat for nine men and nine mouths. By the subsequent alteration of my arrangements (my party originally consisting of ten instead of nine) I, have been for the last three months feeding never less than eleven, sometimes twelve, sometimes fourteen, and on one occasion twenty-two. I never limited the natives, giving them as much as they could eat, to prevent them leaving; and as for my own party, I found that short rations for nine men would not serve ten who had to work hard, live in the open air, and keep from two to three hours watch every night in a temperature averaging ten degrees below freezing point. The meat which I took with me, originally 420 lbs., though excellent, lost in weight at least 25 per cent., and as for game, we could not depend upon it, having been twenty-eight days without even seeing a pigeon On other occasions we obtained abundance; but at any time the allowance of meat from the stores did not exceed 3 lbs. per diem amongst the whole party, blacks and all. For the last week we had none. I merely mention this to account for the rations not having lasted as long as I had anticipated, and as most probably would have been expected. We have now been using them since the 3d March, and they will last about seven weeks more, which will altogether make a period of about 6½ months.

I had almost omitted to report, that amongst the gins whom we had collected at Camp XXI. there were three tomahawks, apparently rudely fashioned from the plates of saddle trees. These they acknowledged to have been part of the spoil of the white men, and said that the black fellows had given tham to them. They appeared to have been made by doubling and hammering together the gullet plates of saddles, and were sharpened at one end, and fastened with gum into cleft sticks, as are the common stone tomahawks. I should have taken one of these, but had none to spare in exchange for it, and taking it away from them would have been much at variance with our professions towards them; besides, I had just then obtained the two guides, and was in hopes of soon finding other and stronger proof.

The boy who joined the party beyond the Maranoa, and who has since remained with us, I intend taking to Sydney. He will soon become sufficiently acquainted with our language to tell all he knows of this sad business, and in the event of any future expedition going in that direction would prove most useful as an interpreter, his language, the Coogi, being the furthest known northern dialect.

I cannot conclude this report without thanking my party, generally, for their assistance, and zealous co-operation on all occasions; to Messrs. Anderson, Horsburgh, and Drysdale, these are especially due; Mr. Edgar, though newly arrived in the colony, and utterly unused to such a life, proved useful; Walker was most anxious for the successful termination of the journey and did his best to promote it; and Jefferson proved an active hard-working man, and particularly fitted for this sort of thing. My two natives, Brown and Jackey (the former particularly), could not be excelled; and the half-caste boy was also very useful, especially in the catching and loading of the mules, &c.

Mr. Drysdale, in addition to his share in the general duties of the camp, has made a valuable and interesting collection of birds and insects for the museum; and in all cases

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where his medical aid has been required, particularly in that of Mr. Horsburgh, his unwearied attention has been beyond all praise.

To the squatters on my outward route, particularly to H. Hughes, Esquire, M.L.C., of Darling Downs, I am under great obligations for their kindness; to that gentleman especially, at whose stations we were encamped for upwards of four weeks, and on whose run our sick and knocked up horses recovered their strength and vigour, are my thanks due.

Hoping that what has been done may meet with the approval of his Excellency the Governor-General.

I have, &c.

The Hon. the Colonial Secretary, &c. &c. &c.

(Signed) HOVENDEN HELY.

Despatches from the Secretary of State.

No. 1. No. 1.

COPY of a DESPATCH from Earl GREY to Governor-General Sir C. A. FITZROY.
(No. 135.)

SIR, Downing Street, September 15, 1850.

I HAVE had under my consideration your Despatch No. 43,* of the 13th March last, relative to certain proposed measures for facilitating the sale of Crown lands in New South Wales.

I have been unable to gather from the enclosures which you have forwarded whether the surveys are, or are likely to be, in the state of readiness in which my instructions of the 7th April 1849 desired they should be kept; but I approve of the regulations which have been adopted with a view to the removal of the impediments to the sale of town and suburban lots, and there can be little doubt that the increase of facility for purchase by bonâ fide settlers will more than compensate for the loss of that convenience which must arise in other respects from the present system of effecting all sales at Sydney.

I now proceed to notice the recommendation in which yourself, the Executive Council, the Superintendent of Port Phillip, and the Surveyor-General concur, that the system of selling without competition land which has once been exposed to auction may be extended to town and suburban as well as country allotments, and it is suggested that the requisite change should be made in the Land Sales Act.

The grounds of this proposal appear to be those adduced by the Surveyor-General, namely, that it would facilitate the acquisition of town and suburban allotments, which form the only class of land for which there is much sale in the Sydney district, by day labourers, mechanics, storekeepers, and innkeepers, who are at present led to occupy illegally, from the alleged difficulty of obtaining it otherwise, and frequently become cattle stealers.

Such illegal occupancies Sir T. Mitchell says "are now to be found in every corner of the colony, large as it is, particularly in the countries west of the Blue Mountains."

I should wish to be informed how far you may consider the latter statement respecting the amount of unauthorized squatting to be accurate and well founded, and if so, to what extent and in which districts the evil exists, and what steps may have been taken for the correction of so pernicious a practice.

With regard to the alterations of the Land Sales Act, it is necessary, before I can come to any decision on the subject, that I should have a clearer explanation of the reasons for the proposed change, as I am unable to understand, from the information now before me, what obstacle there is to the acquisition of town lots which might not be removed by more frequent and larger sales of them. If a demand exists for such lots, this would enable persons to purchase with a view to reselling them.

You will accordingly have the goodness to furnish me with a report upon the several points to which I have here adverted.

I have, &c.
(Signed) GREY.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

No. 2. No. 2.

COPY of a DESPATCH from EARL GREY to Governor-General Sir C. A. FITZROY.
(No. 168.)

SIR, Downing Street, November 9, 1850.

I HAVE received your Despatches of the numbers and dates specified in the margin, on the subject of the boundaries of land leased under the Order in Council of the 9th March 1847.

No. 66, 9 April 1850. Page 1.
No. 67, 10 April 1850. Page 30.
No. 68, 11 April 1850. Page 31.

* Page 70 of Part I. of Papers relative to Crown Lands in the Australian Colonies, presented to Parliament by Her Majesty's Command, 14th August 1850

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Having fully considered those Despatches, I approve of the measures which you have adopted.

By your Despatch No. 68 I observe that the Surveyor-General was entirely in error in describing the anomalous practice which he supposes would be occasioned by the Act of Council passed for the adjustment of disputed boundaries. His reports, however, offer some strong reasons for not issuing the leases until the necessary reservations for public purposes shall have been delineated.

You will best be able to estimate on the spot the urgency of the different considerations which are to be reconciled; but whilst I should be most anxious that the squatters should receive their leases at the earliest moment, consistent with the necessary operations of the survey department, it would seem material to guard the public interests to which Sir T. Mitchell has referred.

If you and your Executive Council should find sufficient reason to deem it an object of general interest to expedite the surveys, it would be better to apply to that service some portion of the reserved moiety of the Land Fund, than to incur the risk of future confusion and inconvenience by issuing leases on imperfect information.

I have, &c.

Governor Sir C. A. FitzRoy, &c. &c. &c.

(Signed) GREY.

No. 3.

No. 3.

Copy of a DESPATCH from Earl Grey to Governor-General Sir C. A. FitzRoy.

(No. 174.)

Sir, Downing Street, November 14, 1850.

I have the honour to acknowledge your Despatch, No. 89*, of the 6th of May last, accompanied by a petition to the Queen from several gentlemen who are proprietors of land in New South Wales, praying that quit rents on such lands as were granted by the Crown subject to that impost should either be at once abandoned or else left to be dealt with by the local authorities.

* Page 34.

2. On the intrinsic merits of the question respecting the fairness of enforcing the payment of quit rents I had an opportunity of expressing my views very fully in my former Despatch to you, No. 7,† of the 12th of January 1849. In that Despatch I had occasion to point out, that whilst since a period of seventeen years no one had been able to acquire any of the public lands in New South Wales without purchasing them at a price which had never been less than five shillings an acre, and had for a long time amounted to a pound an acre. The persons who were applying for relief from quit rents had received free grants of their land, subject to no other obligation than a deferred annual payment of small amount, which it was competent to them to redeem at any moment they chose; that whether or not this obligation was more onerous than they could conveniently bear was a question on which it was natural that those who had to make the payment should differ from others; but that at all events the amount was so limited that if they thought proper to redeem it the persons liable to the highest quit rents would not have to pay more than one twelfth of the lowest price for which any one else could purchase lands in the colony, and that many persons liable to quit rent would not have to pay more than one *hundredth* part of that price, and yet that it was not compulsory either on one or the other to pay down even those moderate sums, but optional to render to the public annually a small per-centage upon it. The highest quit rent, as you are aware, is twopence an acre, and the usual quit rent on all the earlier grants of land a farthing an acre, and persons liable for both are at liberty to commute them altogether at ten years' purchase. The proprietor of 4,000 acres, therefore, would be able, even at the highest rate, to enfranchise his estate for ever by a single payment of 166*l.* 13*s.* 4*d.*, and at the lower rate by a single payment of 41*l.* 13*s.* 4*d.*, or he might, if it should so please him, continue to pay only one tenth of that amount annually. It certainly is difficult, at this distance, to understand that such an obligation, contracted many years, ago in return for the advan-

† See House of Commons' Paper, No. 343, 1849, "Quit Rents," New South Wales.

tage of getting large grants of land without any purchase money at all, can inflict any great burden.

3. You assure, me, however, that under the existing regulations for leasing the waste lands beyond the settled districts much of the land held under quit rent has become practically valueless, and in consequence is unoccupied; and that the attempts to enforce payment by distress warrants have caused a great deal of hardship amongst the parties against whom they were issued; and the addresses which have been formerly received from the Legislature would seem to support the opinion that this is the general sentiment in the colony.

4. Under these circumstances, I shall adopt the same course which I followed in the Despatch I addressed to you, not long ago, upon the subject of the quit rents in the towns of Paramatta and Windsor. Viewed from this distance, as I have already said, it is difficult not to suppose that to waive or materially reduce such claims as those in question might be sacrificing general to particular interests. The matter, however, certainly is one in which Her Majesty's Government have no other interest or wish than not lightly to abandon any right of the Crown which is of advantage to the public of New South Wales. If therefore being cognizant of public opinion on the spot, and of the merits of the question as they may appear under the light of local knowledge, you and the Executive Council consider that it will be proper and advisable to relinquish or further modify the quit rents, I leave it to your discretion to adopt the measures which you may judge fitting under the circumstances.

I have, &c.
(Signed) GREY.

No. 4. No. 4.

COPY of a DESPATCH from Earl GREY to Governor-General Sir C. A. FITZROY.

(No. 51.) Military.

SIR, Downing Street, May 29, 1851.

I HAVE had under my consideration your Despatch, No. 183,* of the 12th October last, accompanied by copy of a petition to the Legislative Council from certain commuted pensioners, and by a resolution of the Council in their favour, the prayer of the petitioners being that they may receive compensation either in money or in land, or in remission orders to be used in the purchase of land, for the amount which they paid for the passage of themselves and their families to the colony. * Page 40.

2. In making an appeal to Her Majesty's bounty in consideration of some of the measures of this country connected with the army, it would have been more regular that the petitioners had addressed themselves directly through you to Her Majesty's Government, than by means of a petition to the Legislature of the colony.

3. They represent that they were induced to commute their pensions and emigrate eighteen years ago, but that they have been disappointed in the colony and been unsuccessful, and they pray that, as the passages of numerous emigrants who commenced arriving in the colony shortly after themselves were paid for out of public funds, they may be allowed to receive back again, in some shape or other, the money which they paid for their own passages.

4. It is true that after 1832 a Land Fund was for the first time created, and that by means of it numerous emigrants have in the succeeding years been sent out to New South Wales. But measures of that kind cannot be retrospective; and it is obvious that it can be no hardship on those who went out previously to 1832, that they did not enjoy the benefit of a fund which did not exist at the time of their emigration.

5. With regard to the pensioners want of success, I have received with much regret the statements which they make to that effect. At the same time it is to be observed, that the measure for which they apply would not meet the real evil of the case. The representation generally made on the subject of commuted pensioners has been, that old soldiers ought not to have been encouraged to commute their pensions, because they were hardly trained to those habits of prudence and foresight which would qualify them to dispense with a regular periodical payment. But to place in their hands an order for a limited quantity

NEW SOUTH WALES.

of land, would not be to cure this defect; it would merely put it again in their power to raise at once a small sum of money, after which they would be in the same position as before. Experience in other cases of the kind has shown that the grantees are generally tempted to part with trifling land orders of this kind for much less even than they are worth; so that whilst the public suffers all the inconvenience of an objectionable measure, the main profits from it is not really gained by those for whom it is intended, but by third parties who prey upon them, and traffic in their rights.

6. It has, I think, been a subject of general regret that the pensions were commuted; but this took place, as the petitioners have observed, eighteen years ago; their case has been fully considered in the interval, and Parliament has assigned to them a small daily payment as a boon. I cannot hold out any prospect that at this distant period Parliament could be asked to reconsider the amount. And with reference to one of the remarks in the petition, viz., that the sons and daughters of the petitioners have obtained employment, and become absorbed in the labouring population of the colony, whilst it appears that they themselves are in distress, I must observe, that parents in such circumstances may naturally look to the support and assistance of their own offspring. One of the very benefits looked to from the emigration of the pensioners was, that they would remove themselves from a country in which their families were a burden to one in which they might be expected to become an assistance and a support.

7. I enclose for your information an extract of the memorandum which was issued from the War Office on the 8th of August 1831,* when the measure of commutation was in progress.

8. In conclusion, I regret that I must instruct you to acquaint the petitioners that Her Majesty's Government, whilst they deeply lament anything unfavourable in their present position, are unable to comply with the object of their application.

I have, &c.

Governor Sir C. A. FitzRoy, &c. &c. &c.

(Signed) GREY.

No. 5.

No. 5.

COPY of a DESPATCH from Earl GREY to Governor-General Sir C. A. FITZROY.

(No. 52, Military.)

SIR, Downing Street, May 29, 1851.

* Page 41.

I HAVE had under my consideration your Despatch, No. 184,* of the 14th October last, accompanied by a resolution of the Legislative Council, founded on a petition addressed to them by eight retired officers, expressive of the opinion of the Council, that the "augmented scale of remission money now "in force under the sanction of the Lords Commissioners of Her Majesty's "Treasury ought to be applied to all military, naval, and medical officers of "Her Majesty's and the Honourable East India Company's services who left "their respective services on or after the 1st of January 1839, and before the "augmented scale took effect."

I regret that to this opinion it is impossible for Her Majesty's Government to assent. What the Government offered to these gentlemen was a certain free gift, defined with perfect accuracy, in case they should consider it conducive to their own interests to settle in New South Wales. This free gift they accepted with an entire knowledge of what they were about, and it was not alleged either that they were misled, or that Government was under any obligation, direct or indirect, to do more than was actually done for them. When the price of land was raised, it became dearer in an equal ratio to all classes of land purchasers in the colony without exception, and officers of the army and navy continued to receive exactly the same amount of indulgence, measured by its value in money, as before. Any attempt to argue that, no matter what rise may take place in the value of land in a great and populous colony, officers

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* See page 72 of House of Commons Papers, No. 248, "Chelsea Pensioners," 7th and 15th May 1839."

are still entitled to expect that Her Majesty's bounty will entitle them to gifts of the same quantities of land as may have been allowed to them in the earlier days of the settlement, would be so manifestly unreasonable that it cannot require an answer. I have to instruct you, therefore, that the request of the present petitioners is inadmissible.

4. I must also point out that these officers adopted an irregular and objectionable course in appealing by petition to the Legislature against a decision upon the question of the extent of indulgence to be shown them by Her Majesty on such a subject as the present.

I have, &c.
(Signed) GREY.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

No. 6.

Copy of a DESPATCH from Earl Grey to Governor-General Sir C. A. FitzRoy.

(No. 108.)

Sir, Downing Street, August 30, 1851.

I transmit to you the copy of a letter from Mr. James Bingley, dated Geelong, the 18th of February last, representing that the Lieutenant-Governor of Port Phillip had refuse to forward one addressed to me by the writer on the 10th of that month, a copy of which, and of the Lieutenant Governor's reply respecting it, is also annexed.

See Page 169.

With regard to the complaints concerning land which form the subject of Mr. Bingley's letter of the 10th of February, I have written a separate Despatch to Mr. LaTrobe, but my object in sending you the enclosed papers is to draw your attention to the fact that Mr. LaTrobe's refusal to give effect to Mr. Bingley's wishes was founded on your directions to that effect contained in the Colonial Secretary's letter to him of the 30th May 1850.

It is to be regretted that you should have thought it right to adopt such a course, inasmuch as the printed regulations by which all persons residing in a colony are obliged to send any representation they may wish to address to the Secretary of State through the medium of the officer administering the Government likewise require that officer to transmit the same, giving him no discretionary power of keeping back under any circumstances letters addressed to the Secretary of State, and sent to him for transmission. The Governor of a colony, in forwarding letters to the Secretary of State, ought to express his opinion freely as to the point of weight which ought to be given to the communications he forwards, but however worthless they may be he is not justified in detaining them. A strict adherence to this rule is necessary in order to enable the Secretary of State to enforce the not less important rule which requires all communications addressed to him from the colonies to be sent through the Governors. You will in future be careful to attend to these instructions.

I have, &c.
(Signed) GREY.

Governor Sir C. A. FitzRoy.
&c. &c. &c.

P.S.—Since the above Despatch was written I have received a further letter (of which the enclosed is a copy) from Mr. Bingley, pointing out a recent instance of the inattention which he alleges to have been shown to the applications addressed by him to the local authorities.

April 14, 1851.

No. 7.

Copy of a DESPATCH from Earl Grey to Governor-General Sir C. A. FitzRoy.

(No. 117.)

Sir, Downing Street, September 15, 1851.

I have to acknowledge the receipt of your Despatch No. 73,* of the 7th of April, with a petition addressed to the Queen by certain ladies, daughters

* Page 44.

NEW SOUTH WALES.

of colonial chaplains, praying for a remission of quit rent. You will inform the memorialists that I have laid their petition before Her Majesty, and that by my advice Her Majesty has been pleased to accede to their request. You are therefore authorized to make the same remission in their favour as you were directed to make in the cases to which you refer of Miss Reddall and Mrs. Frazer, relieving the present applicants from the payment of their quit rent, including the arrears, provided that the unimproved value of the property should not after the remission amount to more than 320*l.*

With reference to the fourth paragraph of your Despatch, I have also to authorize you to apply the same rule to the few other persons of the same class who, as you state, are in a position to make similar applications.

I have, &c.

Governor Sir C. A. FitzRoy, &c. &c. &c. (Signed) GREY.

No. 8.

No. 8.

Copy of a DESPATCH from Earl Grey to Governor-General Sir C. A. FitzRoy.

(No. 122.)

Sir, Downing Street, October 6, 1851.

1. I have to acknowledge your Despatch of the 24th March last*, with reference to refunding certain money paid as quit rent by persons who have maintained convicts. As you seem to me to have misapprehended the directions conveyed in my Despatch of 12th March 1849,* I think it necessary briefly to recapitulate the facts bearing on this question.

* Page 44.

2. The Colonial Office regulations under which these claims are put forward contained, besides the usual clauses regarding quit rents, a provision that in their redemption the grantee should have credit for one fifth of the sum which he was estimated to have saved Her Majesty's Government by employing convicts. Under these regulations, therefore, such a redemption could only have been effected by paying, first, the whole rent due up to the period of redemption; and, secondly, an additional sum equal to twenty years quit rent, less whatever abatement the grantee might be entitled to claim for maintaining convicts. In your Despatch dated 29th July 1848 you informed me that many persons had claimed, or were likely to claim, the benefit of this provision; and requested to be furnished with instructions on the subject.

3. But meantime, by your notice of the 9th October 1846, you had made to these and other grantees various concessions, based on the principle that all land should be relieved from the future payment of quit rent, in respect of which twenty years rent (or in some instances a less sum) had been, or might be paid up.

4. In my Despatch of the 12th of March 1849 I conveyed to you my decision, that persons who had emigrated on the faith of the above mentioned Colonial Office regulations might, if they chose, be allowed the full benefit of them, but should in that case be precluded from taking advantage of the terms offered by your notice of the 9th October 1846. The grounds of my decision were then so fully stated to you that I need not now repeat them. I will, however, repeat the words in which my decision was conveyed, so far as they bear on the present question. They were as follow:—

"Before, therefore, they can be considered entitled to any abatement for the "maintenance of convicts, they must be called on to redeem their quit rent at "twenty times the amount, and the abatement ought to be calculated on this "sum. They must also be charged with the full amount of quit rent to which "they may have been liable upon the whole of the land they may have held in "the colony, together with interest on any arrears which may have been allowed "to accumulate."

5. In your present Despatch you state that "in some cases the quit rents "have been paid either wholly or in part by parties who were in a position to

* Page 78 of Part I. of Papers relative to Crown Lands in the Australian Colonies, presented to Parliament by Her Majesty's Command, August 14, 1850.

" prove their claim to the benefit of the regulations referred to, and who, there-
" fore, expect that they (the quit rents) shall be refunded." And in regard to these claims you apply for instructions, presuming that, under the decision already quoted, "repayment should be made to the same extent as a remission " would have been granted, had the quit rents remained unpaid."

6. But I wish to point out to you, that under that decision no remission whatever was to be granted where any quit rent remained unpaid. Persons who have paid their quit rents in full have done no more, and persons who have paid them in part have done less, than they were required to do by the regulations of which they claim the benefit. And by claiming that benefit they are to be considered as waiving all the further advantages derivable from your notice of 9th October 1846. It follows that neither in the cases you have brought before me, nor in any other, can the fact of having maintained Government convicts entitle any person to reclaim money once paid by him in liquidation of his quit rent.

7. I can scarcely suppose it possible that there are persons in the colony who have paid to Government, not only the full amount of their annual quit rent, but an additional sum which (after allowance made for maintenance of convicts) would be more than sufficient for its redemption. But even if such cases should be found to exist, I could not authorize you to refund any money; because, as I have stated in my previous Despatch on this subject, I should conceive that, by redeeming their quit rents without claiming any abatement, the grantees showed that the expectation of that abatement was not among their inducements to emigrate.

I have, &c.
(Signed) GREY.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

No. 9. No. 9.

Copy of a DESPATCH from Earl Grey to Governor-General Sir C. A. FitzRoy.

(No. 150.)

Sir,

Downing Street, December 8, 1851.

I have received your Despatch No. 145,* of the 5th August last, forwarding the result of the deliberations of the Executive Council of your Government on several points which had been referred for your report connected with the measures for facilitating the sale of Crown lands in New South Wales. * Page 47.

It has been satisfactory to me to perceive the conclusions at which the Council have arrived on the subject under their consideration.

I am, &c.
(Signed) GREY.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

No. 10. No. 10.

Copy of a DESPATCH from the Right Hon. Sir John S. Pakington to Governor-General Sir C. A. FitzRoy.

(No. 30.)

Sir,

Downing Street, July 1, 1852.

I have to acknowledge the receipt of your Despatch No. 22,* of the 29th January 1852, and to convey to you my approval of the proceedings which you there report as having been taken for endeavouring to ascertain the fate of the exploratory expedition under Dr. Leichhardt. * Page 54.

I am, &c.
(Signed) JOHN S. PAKINGTON.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

NEW SOUTH WALES.

No. 11.

No. 11.

Copy of a DESPATCH from the Right Hon. Sir John S. Pakington to Governor-General Sir C. A. Fitz Roy.

(No. 62.)

Sir, Downing Street, October 3, 1852.

With reference to the sale of a large block of land made to Mr. Clark in the province of Victoria, before it was separated from your Government, I enclose, for your information and guidance, the copy of a Despatch which I have had occasion to address to Lieut.-Governor Latrobe. You will perceive from this Despatch that under present circumstances in Australia I consider the sale of large blocks of land by private contract as open to serious objection.

No. 58, Sept. 16, 1852. Page 176.

I have, &c.

(Signed) JOHN S. PAKINGTON.

Governor Sir C. A. FitzRoy,
&c. &c. &c.

No. 12.

No. 12.

Copy of a DESPATCH from the Duke of Newcastle to Governor-General Sir C. A. FitzRoy.

(No. 27.)

Sir, Downing Street, February 7, 1853.

I have to acknowledge the receipt of your Despatch No. 113,* of the 23d July last, and I have in reply to express my approval of the course by which you propose to give the licensed occupier of Crown lands the benefit of his improvements on any portions of his land taken for town or village reserves.

* Page 58.

I have, &c.

Governor Sir C. A. FitzRoy, (Signed) NEWCASTLE.
&c. &c. &c.

VICTORIA.

DESPATCHES FROM LIEUTENANT-GOVERNOR LATROBE.

Despatches from Lieutenant-Governor LaTrobe.

No. 1.

No. 1.

COPY of a DESPATCH from Lieut.-Governor LATROBE to Earl GREY.

(No. 16.) Melbourne, August 9, 1851.
MY LORD, (Received, January, 7 1852.)
(Answered, No. 4, March 24, 1852, p. 173.)

July 9, 1851. and Enclosures.

IT is my duty to transmit to your Lordship the enclosed communication addressed to your Lordship by Mr. John Bingley, reiterating former complaint of the manner in which he had been treated by the colonial authorities.

2. Before making any particular comments upon the complaints and statements which this letter embodies, I think it requisite to recall your Lordship's recollection to the fact that this gentleman's principal complaint, viz., that certain land which he had applied to purchase had not been exposed to sale agreeably to his request, was already brought under your Lordship's attention in 1848 by the transmission of a memorial from Mr. Bingley through Sir C. A. FitzRoy.

This memorial, I believe, accompanied by a detailed explanation, on the part of the Superintendent of Port Phillip, of the grounds and merits of the complaint, was forwarded to your Lordship by his Excellency's Despatch, dated September 18, 1848, No. 201.

3. Your Lordship's reply, addressed to Sir C. A. FitzRoy, dated 20th April, 1849, No. 53, reached its destination in due course, and was communicated through the Superintendent's office at Melbourne to Mr. Bingley.

4. This decision was to the effect that your Lordship, having duly considered the circumstances of his case, had come to the conclusion that the complaint he had made was groundless, and that your Lordship was unable to interfere with the decision which had been already arrived at in the matter by the Superintendent of Port Phillip.

5. It is now necessary for me to state that, notwithstanding this decision, Mr. Bingley continued, month after month, to address various communications to the Colonial Government, all more or less bearing upon the same subject, adverting to the same complaint, or advancing similarly unfounded statements, and requiring a reiteration of former explanations.

May 1850.

Many of these communications showed that he was quite unable to understand any explanation given him; and, from a conviction of the inutility of further correspondence, his Excellency the Governor directed that Mr. Bingley should be informed that, as his complaint had been already disposed of by your Lordship, his Excellency must decline to be the medium of transmitting any further communication from him on the subject.

May 1, 1850.
June 22, 1850.

6. It appears that after receiving this intimation Mr. Bingley resolved to address a second appeal with reference to this matter to the Secretary of State, and that he did so in two letters addressed to your Lordship, as noted in the margin.

7. Your Lordship apparently did not recall to mind the identity of this complaint with that of the former memorial, or that the complaint had already been taken into consideration, and disposed of as before stated; but, merely noticing the informality of the mode of transmission adopted by Mr. Bingley, your Lordship instructed Sir C. A. FitzRoy, by a Despatch in November 1850, to inform Mr. Bingley that, in consequence of his letter not having been transmitted through his Excellency the Governor according to the established rule of colonial correspondence, it could not be noticed, and that if he wished it to be so he must forward a fresh application, through the Superintendent of Port Phillip, to the Governor, in order that the same might be forwarded to your Lordship with such explanations and remarks as might appear to be necessary.

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8. This intimation was communicated to Mr. Bingley from the Superintendent's office in April last as soon after the instructions were received from Sydney as circumstances permitted.

The memorial now transmitted is the result.

9. Now with regard to Mr. Bingley's complaint I must be allowed to state that so far as it would profess to show that he has been treated with neglect or hardship by the local Government, it is utterly unfounded.

Viewing the character, extent, and tone of the correspondence of Mr. Bingley and his brothers, the length of time over which it has extended, for upwards of five years, the evident inutility of any attempt to explain to him what were the real causes under which his claim to purchase a certain plot of ground at once could not for the present be admitted, I think that there are few instances which might be better selected to show the patience and temper of the Government with which he had to do.

Mr. J. P. Bingley
Mr. Jas. Bingley

10. After the full explantion of the whole of the circumstances and merits of the case up to July 1848, which is contained in the paper from the Superintendent's office before alluded to, I need only recall to your Lordship's recollection the principal features.

11. In March 1846 Mr. Bingley made application to have surveyed for purchase certain lands, held by another person under depasture license, situated beyond the limits of the county of Grant.

Though appertaining to a class which, by an express provision of the regulations then in force, the Government did not pledge itself to bring into the market, even if asked for, an attempt was made to comply with his wishes, and the land was actually in course of survey, when the promulgation of the Act of Parliament, and the accompanying orders in Council giving certain rights to the occupants of Crown lands under licence beyond the settled district under which class the land in question now fell, necessitated the suspension of all further proceedings as regarded their sale. It was decided by the law officers of the Crown that until the actual issue of leases enabled the Government to exercise the power of bringing such lands into the market in the manner pointed out in the Order in Council, it was not in its power to dispose of any such lands either in the intermediate or unsettled districts.

Oct. 7, 1847.
9 & 10 Vict. c. 104
Chap. 3. Sect. 1.

12. The sale of the land selected by Mr. Bingley was then and is still opposed by the licensee.

Mr. Bingley persists in holding a contrary opinion to the law officers of the Crown, and otherwise construes the Act of Parliament and the Orders in Council, and his complaints all hinge, more or less, upon this circumstance.

13. There is another main cause of complaint. This is, that in considering that the time of the actual issue of leases was so indefinite the Governor, with the advice of the law officers of the Crown and the Executive Council, saw fit to issue a regulation enabling the lessees of Crown lands beyond the settled districts to purchase portions of their runs, without competition, even before the actual issue of lease.

Mr. Bingley evidently cannot be made to understand the real bearing of this regulation upon his case. He argues, that because Government has allowed the licensees this indulgence, it is in a position to carry out the other provision of the Orders in Council with regard to the sale to the public of the other parts of the run not immediately selected by the licensee on the strength of the above concession in his favour.

Sect. 8. Chap. 2.

14. Whether it were in itself just and reasonable that this should be the case is not the question. I am inclined to think it would be, and I did not fail to make a full representation of my view, and of the anomalous and unfair position in which the public appeared to stand with regard to the purchase of lands included in applications for lease, unless some facilities could be given to their acquisition, even before the issue of leases under a similar indulgent construction of the law.

15. The reply of the law officers, however, decided that question, and explicitly enforced the opinion previously given, that until leases were actually issued no attempt to offer at public sale on the part of Government any portion of a licensed run within the intermediate district was, if opposed by the occupant, justifiable.

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16. This opinion has of course guided the Government in all its proceedings, and nothing short of the issue of leases, which of course will not be retarded, whenever practicable, can relieve the public from the seemingly false position in which it is placed.

17. Passing from this portion of Mr. Bingley's complaint to the statement that land sales are not held at the particular intervals fixed by Act of Parliament, I can only say, that assuming as Mr. Bingley does that the Act of Parliament really made it obligatory upon the New South Wales Government to proclaim quarterly sales in each of the main subdivisions of the colony, which does not appear to have been the opinion of the authorities in Sydney, the local Government of Port Phillip has been in no degree to blame. Beyond preparing and sending up lists of lands required for sale, it has had no authority or power to prescribe the precise extent or period of sale.

18. The latter has been, I admit, whatever may have been the reason, more irregular than was judicious, whether conformably to strict legal provision or not. No such irregularity will, I trust, take place under the altered state of the colony.

19. Mr. Bingley does not convey an impression of the truth when he adverts to what he calls "the Government system of keeping the supply brought to market greatly below the demand, and keeping up a false appearance of putting up more than is wanted, by including in each sale land that would pay no man for its cultivation if it was bestowed upon him gratuitously."

20. No such system has ever prevailed.

The local Government has for many years past considered it obligatory upon it to recommend for sale all land which was applied for, as far as it was legally in a position to do so and the state of the survey permitted, and no other, considering that the public was the best judge both of the description and amount that might be required for sale.

The fact that millions of acres of the best soil in the country are locked up from the legitimate purchaser in pastoral occupation, if it be the case, is, as is shown above, not to be laid at the door of the colonial Government.

21. Alluding to the case which Mr. Bingley confidently cites in proof of his accusation of the ill conduct of the local Government in disposing of Crown lands, and of the undue advantage given to the so-called squatter under his pre-emptive right, I am not at all assured that he states the fact correctly.

Up to this date, comparatively speaking, very few portions of runs whatever have been selected under the privileges and in the terms of the notice of the 28th June 1850; but even if it be so in the main points I can see nothing in it but the unavoidable operation of the Orders in Council and regulations founded upon them conceding, as they do, a right of pre-emption at evaluation to the occupant under license of certain portions of his run, including homestead and improvements.

No system of Government evaluation under such circumstances will secure to the public the advantages or the price which an individual eagerly following up his own interests, and choosing his own time of re-sale, may possibly realize.

22. In conclusion, I may say, that presuming that the law remains as it is, and that the construction put upon it by the law officers of the Crown of the colony remains unshaken, it is completely out of my power to accede to Mr. Bingley's wishes, however reasonable they may appear.

I never have been disposed to deny the difficulties which attend the working of the law as it at present stands, or that it includes provisions which are not at present favourable to the proper development of the capabilities of the colony, but over the law I have no power.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. J. LATROBE.

Enclosure 1 in No. 1. VICTORIA.

My Lord, Geelong, Port Phillip, July 9, 1851.

I had the honour on the 18th February to receive a letter from Mr. Hawes acknowledging the receipt of my letter dated the 1st May 1850 and informing me that in consequence of my letter not having been forwarded through the Governor that the Governor had been directed to inform me that I must forward a fresh application through him. It was not until the 29th day of April last that I received from the local Government any intimation of the instructions conveyed to his Excellency the Governor on the subject of my complaints, which I had been compelled to forward direct to your Lordship not from ignorance of the established rules of the department of Government over which your Lordship presides, or from any wilful intention of departing from those rules, but because the local authorities, in addition to the injuries which I had occasion to complain, had closed against me the established official channel of complaint which the constitution of my country had secured as the birthright of every British subject.

On the envelope of Mr. Hawes's letter to me of the 11th October there is an endorsement by the private secretary to his Excellency that it was received by him on the 9th February. Not doubting but your Lordship's instructions to the local Government would have accompanied this letter, I waited in hourly expectation of receiving from the Governor the intimation which the letter of Mr. Hawes led me to expect. On the 12th March, having received no communication from the local Government, I addressed a letter to his Honour the Superintendent, copy of which, with another letter of April 7th on the same subject, I forwarded to your Lordship on the 14th April,* with a complaint of the local authorities having disregarded your Lordship's instruction, of which complaint I now forward a duplicate. After my letter of the 14th April to your Lordship had been posted I received a letter from the Superintendent, forwarded also herewith, dated April 11th, acknowledging my two letters of the 12th March and 7th April. On the 3d May I received another letter, dated April 29th, from the Superintendent, after I had written to him a third letter, enclosing a copy of the letter I had received from Mr. Hawes. In this letter of the 29th April the local Government conveyed to me the first intimation of the instructions which Mr. Hawes's letter of the 11th October, received by the Governor on the 9th February, informed me had been forwarded by your Lordship to Sir Charles FitzRoy.

* Page 84.

In compliance with your Lordship's requirements I now forward through his Excellency the Lieutenant-Governor of Victoria duplicate of my former letter of the 1st May 1850,* with other correspondence that has since passed between the local Government and myself arising out of the same matter.

* Page 84.

Your Lordship will please to observe that the reason at first assigned by the local Government for refusing to comply with applications for the purchase of Crown lands in the intermediate district was, that these applications could not be entertained by reason of the pre-emptive right of purchase secured by the Orders in Council to the persons who were in the licensed occupation of Crown lands in the intermediate districts at the date of those orders until after the persons so entitled had by the execution of their leases been placed in a situation to enable them to exercise their right of purchase by pre-emption.

It is now three years and three months since the time expired for the renewing or claims for leases, and not one of them has yet been issued; yet on the 28th June 1850 a notice appeared in the Gazette, inviting applications from all persons who were desirous to purchase in virtue of the right of pre-emption portions of the Crown lands for which they claim leases under the Orders in Council.

On the 6th of September,* after the issue of this notice, I addressed the enclosed letter of that date to his Honour the Superintendent, conceiving that sufficient time had elapsed to admit of the party holding in possession the land for which I had applied to purchase as far back as the 29th July 1847, very reasonably supposing that if the Government was now in a condition to sell the land to licensed occupants under the pre-emptive right, they were equally in a condition to comply with the Act of Parliament and Orders in Council by selling to others of the Queen's subjects the same land which remained unclaimed by the persons to whom this right of pre-emption had been conceded in contravention of the just rights of Her Majesty's other subjects, and to the great damage of the interest of the Crown. I inquired whether the person in possession of the lands which had been the subject of my former application and complaint to your Lordship had applied to purchase them, and whether the Government, having now afforded to the squatters the opportunity of exercising their pre-emptive right of purchase, had now decided upon offering the land in the intermediate district for purchase, in accordance with the Act of Parliament and Orders in Council.

* Page 85.

On the 12th September 1850 his Honour, by letter herewith enclosed, informed me that up to that date (three months after the Government notice inviting applications) the person in occupation of the land for which I had applied had put in no claim for purchase under the right of pre-emption, and that his Honour was not in a position to afford me any satisfactory answer as to whether or not the Government had decided upon complying with the Act of Parliament and the Royal Orders in Council.

After receiving from his Honour the intimation contained in his letter of the 29th April 1851, it appeared to me, that before troubling your Lordship with a renewal of my

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complaint, it would be proper to ascertain from the local Government whether they still persisted in withholding from me the right which I claimed under the Colonial Land Sale Act and the Royal Orders in Council.

* Page 86.

I therefore addressed to his Honour the enclosed letter, dated 12th May 1851,* and not receiving any acknowledgment to that, I addressed him the letter dated the 26th May,* to which I received the enclosed letter, dated the 30th May,* in which his Honour informs me that until after the issue of the leases to occupants of Crown lands the Government is disabled from bringing to market lands of the description in question.

I would most respectfully entreat the attention of your Lordship to the following facts:—

1st. The Government declares its inability to render obedience to the Act of Parliament and the Orders in Council by putting up to auction, on application by intending purchaser, the land in the intermediate district, because the leases have not been issued.

2d. Twelve months have now elapsed since the Government invited the licensees in possession of Crown lands in the intermediate districts to make application to purchase portions of their licensed lands under the pre-emptive right of purchase without competition, to be conveyed by those leases, the non-issue of which constitutes the plea for disobeying the Act of Parliament and the Orders in Council.

I would very humbly inquire if the non-issue of these leases is sufficient to justify disobedience to the Act of Parliament and the Orders in Council in withholding their rights from the other colonists. How is it that the local Government can concede to the squatters, pending the issue of those leases, rights which can only be derived from them? And why should the Government invite the squatters to make purchases without competition, while they refuse the other colonists the opportunity of purchasing by public competition?

3d. By reference to the official accounts of the Government land sales in the province of Victoria your Lordship cannot fail to observe (first) that the sales are not held at the periodical dates fixed by the Act of Parliament, but that one or two of these periods are often allowed to pass without any land being sold, so that in place of four land sales being held in a year there are only two sales in one year, and sometimes five sales in two years. (Second.) From the same official source you will see the land that is sold far exceeds the intrinsic value of the best land in the colony, an unnatural and injurious advance of price consequent on a spirit of gambling speculations in land, induced by the Government system of keeping the supply brought to market greatly below the demand, and keeping up a false appearance of putting up more than is wanted by including in each sale land that would pay no man for its cultivation if it was bestowed upon him gratuitously. The consequence of this artificial unreal apparent value that is temporarily created by the manner in which the land sales are regulated is, that very large sums of money are abstracted for the purchase of inferior land which ought to be applied to the cultivation and improvement of the soil, while millions of acres of the best soil in the colony are locked up from legitimate purchasers in pastoral occupation in a state of nature, yielding a mere nominal revenue to the Government and no benefit to the community.

4th. By withholding the land from sale by public competition, while the squatters are not only allowed but invited to exercise their privilege of purchasing without competition, not only are the subjects oppressed, but the interest of the Crown in the land revenue are subjected to serious injury. For while the real cultivator of the soil is denied not only the rights of selection of the Crown lands for purchase at a fixed price, but even of purchasing what is fit for his purpose by public competition at auction, if the lessee of Crown lands has the privilege to purchase without competition all or any portion of the valuable and extensive territory which he enjoys for a mere quit rent, as pasturage, the agriculturist will be forced to purchase from him at an advance upon the Government price to the squatter, rather than submit to the delays and obstructions which the Government interpose to every attempt to purchase agricultural land of good quality in an advantageous locality from the Crown independent of the risk of competition at a public sale.

This, my Lord, is no hypothetical case, but one which to a certain extent has been already realised. A squatter in the neighbourhood of Colac having, as he himself reports, acquired by his privilege of pre-emption a section of land adjoining that township and commanding all its supply of water at the Government minimum price, while the next adjoining section of inferior quality, being divided into small portions, was sold at prices varying from 5*l.* to 20*l.* per acre a few days previous to his purchase, and within a week afterwards he authorized an agent to offer it at 5*l.* per acre to parties who had attempted in vain for four years to purchase it direct from the Crown at a regular land sale. These facts, incredible as they appear, I am prepared to prove on the spot by the oath of the gentleman whose application to purchase was refused, and to whom the land has since the purchase been offered by the purchaser at 5*l.* per acre. The proprietors of the town and suburban land waited on the surveyor in charge and on the gentleman who officiated for his Honour the Superintendent in his absence in Sydney to represent to him the injury which the sale of this section would inflict upon the inhabitants of the town and suburbs. And I felt it necessary to do this because I feel convinced that the injuries which the colonists generally are suffering, as well as those which are the particular subject of

my own complaints, would not be permitted if some great deception with regard to dealing with the Crown lands had not been successfully practised upon your Lordship. In my own case I would be most willing to pay the squatter in possession of the land for which I have been applying a very considerable advance upon his purchase from the Government by his pre-emptive right if by exercising that right he would place himself in a situation to sell to me, and obviate an extension of the delay and obstruction which I have been subjected to by the local Government.

It appears scarcely necessary that I should bring under your Lordship's notice the great inconvenience, and even distress, from the want of provisions that will be the probable consequence of the conduct of the local Government in withholding from sale the Crown lands most profitable for agricultural occupation, now that such a rapid influx of population may be anticipated to follow the recent discovery of precious metals in the soil of this and the elder colony; but I trust that your Lordship will excuse me for referring to it as an aggravation of the loss and injury which I sustain by having been so long prevented from obtaining what I conceive to be the rights to which as a British subject I am by the law entitled, and to my obtaining of which I consider that the faith of the British Parliament is pledged by the Land Sale Act and that of the Sovereign by the Orders in Council regulating the leasing of Crown lands. I have now been by the act of the local Government for four years deprived of the opportunity of employing my capital and industry in the business in which I had been reared, and which on the faith of the representations held out by the British Government I came here to follow at a distance of 16,000 miles from my native country, my entreaties for the concessions of my just rights, the withholding of which was a loss and injury to the Crown as well as an act of oppression to me its humble subject. I was even denied the inalienable birthright of every British subject to have my complaints to which I was subjected transmitted through the prescribed official channel, thus subjecting me to an additional delay and loss of upwards of twelve months. I annex a list of the documents formerly forwarded to your Lordship direct, and to the local Government for transmission with those which accompanied this application, to which I humbly entreat your Lordship's consideration; and with respectful confidence in your Lordship's justice as a minister of my Sovereign, I pray that you will order that the land may be put up to auction in terms of the Act of Parliament and Orders in Council.

And your Lordship will, by doing me justice by removing the obstacles that interpose to prevent the sale of the Crown lands, confer an inestimable benefit upon my fellow colonists and the surplus population of the mother country by affording every facility to the investment of capital in the purchase of Crown lands.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) JOHN BINGLEY.

A LIST of Documents forwarded to the local Government, addressed to your Lordship, that was refused transmission.

A complaint addressed by me to your Lordship, dated the 1st May 1850, enclo ing a letter, dated 19th April 1850, addressed to his Honour.
His Honour's reply, dated 24th April 1850.

A LIST of Documents forwarded direct to your Lordship.

A duplicate of the complaint, dated the 1st May 1850.
A letter to his Honour, dated the 19th April 1850.
His Honour's reply, dated the 24th April 1850.
A letter to your Lordship, dated the 22d June 1850.
A communication from his Excellency, refusing to transmit the application to your Lordship.

A LIST of Documents enclosed with my application to your Lordship, dated this 9th day of July 1851.

A duplicate of my letter to your Lordship, dated the 1st May 1850.
A duplicate of my letter to your Lordship of the 14th April 1851.
A letter to his Honour, dated 6th September 1850.
His Honour's reply, 12th September 1850.
A letter from his Honour, 11th April 1851.
A letter to his Honour, 21st April 1851.
A communication from his Honour, 29th April 1851.
A letter to his Honour, 12th May 1851.
His Honour's reply, 30th May 1851, enclosing a duplicate of the 14th May 1851.

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Enclosure 2 in No. 1.

Encl. 2 in No. 1.

Port Phillip, Geelong, May 1, 1850.

My Lord,

I had the honour to communicate to your Lordship on the 12th July 1848 a statement of the treatment I had received at the hands of the local Government of this colony, in respect to my application to purchase Crown lands, and received in reply, through his Honour the Superintendent, an intimation that your Lordship considered that there were no grounds for complaint. In consequence, I have found it necessary to communicate again with his Honour the Superintendent to the effect that it appears to me that it must have escaped your Lordship's notice that these lands have not been offered for sale in accordance with the Act of Parliament and the Orders of the Queen in Council. I received in reply the enclosed letter, referring me to a former correspondence for the information I require, as I have had no communication with the Government since the 29th June 1848, a copy of which letter was enclosed to your Lordship, which was to the following effect, that his Excellency desired the correspondence to cease, that it was not his intention, nor was it in his power, to decide my claim. Consequently, his Honour leaves me to infer that your Lordship sanctions the violation of the Act of Parliament and the Orders of the Queen in Council for the sale of Crown lands in this colony, inasmuch as the Order of the Queen in chapter 3. sect. 1. provides that it shall be competent for the Governor or officer for the time being administering the government of the colony, providing he shall have given sixty days previous notice, to offer for sale all or any part of the lands within any such run. Now I have been led from time to time by the promises made by the local Government to expect that these lands would he offered for sale, and a survey of the lands has taken place in compliance with my application. Clause 6. of the Act of Parliament expressly states that there shall be a sale of Crown lands in each of the four usual quarters of the year. Since the 27th June 1849 up to this 1st day of May 1850 there has been but one land sale, namely, held on the 6th November 1849. From your Lordship's known integrity I cannot believe that your Lordship will sanction the violation of the aforesaid Act of Parliament and Orders of the Queen in Council, in which so many individuals have placed implicit reliance, and have left their native country, and are now waiting an opportunity to purchase lands from the Crown, and are, like myself, put to considerable expense and loss from this breach of faith on the part of the Government. I, therefore, pray your Lordship's favourable consideration of my case.

I have, &c.
(Signed) John Bingley.

The Right Hon. Earl Grey,
&c. &c.

Encl. 3. in No. 1.

Enclosure 3 in No. 1.

Port Phillip, Geelong, April 14, 1851.

My Lord,

I had the honour to receive two letters from Mr. Hawes, dated the 11th October and 23d November 1850, in reply to two communications addressed by me to your Lordship, on the 1st of May 1850 in which I complained of the treatment I had received from the local Government, and the 23d June forwarding the refusal of the local Government to transmit the said letter, dated the 1st May.

Mr. Hawes's letter of the 11th October reached here on the 9th February last. The local Government not having complied with your Lordship's instructions, I ventured to address a copy of the enclosed letter, dated the 14th March, to his Honour the Superintendent. Having received no reply, I addressed a second letter the 7th April to ascertain if the former letter had been received. Neither of them have been acknowledged. It appears to me that the local Government are treating your Lordship's instructions with the same contempt as they have treated the Acts of the Imperial Parliament relating to the land sales. Therefore the local Government have left only one of two courses open for me to take, that is, either to appeal to the Imperial Parliament, or to appeal again to your Lordship out of the usual official channel. I could not take the former course without treating your Lordship with that disrespect which it is my greatest anxiety to avoid.

In being compelled to appeal again to your Lordship out of the usual official course I cannot refrain from expressing to your Lordship my regret at the loss of time that must of necessity take place, and the loss that I must inevitably sustain by being kept out of business for so long a period.

I trust that your Lordship will take this present cause of complaint into consideration at the same time that your Lordship judges of the contempt with which the local Government have treated your Lordship's instructions.

Since I had the honour to address your Lordship on the 1st May last other circumstances have occurred that would enable me to prove more clearly to your Lordship the

injustice that I have received from the Government had I been afforded the opportunity that your Lordship's instructions directed. But as I am precluded from having my complaints forwarded through the prescribed channel, even in defiance of your Lordship's instructions to that effect, I refrain from troubling you with fresh matter of complaint until I am favoured with your Lordship's decision on what is already before you, and on the conduct of the local authorities in depriving me, as a British subject, of the constitutional right of bringing my complaints against the local authorities under consideration of their official superiors through the prescribed official channel for such appeals.

I have, &c.
(Signed) JOHN BINGLEY.

The Right Hon. Earl Grey,
&c. &c.

Enclosure 4 in No. 1.

Encl. 4 in No. 1.

Geelong, September 6, 1850.

SIR,

HAVING observed a notice, dated the 28th June last, from the Colonial Secretary to the licensed occupants of Crown lands, inviting them to claim their pre-emptive right to purchase portions of their licensed runs confirmed by Her Majesty's Order in Council, I beg to be informed if a pre-emptive claim to purchase has been made by the licensed occupant upon any of the portions of land applied for by me at Mount Mercer and its vicinity in a parish unnamed in the county of Grenville, as such claim renders it necessary for me to make application for permission to have other portions of land put up to public competition.

I have also to request that your Honour will inform me if the Government have decided upon offering lands to public competition in the intermediate district in accordance with the Act of Parliament and Orders of the Queen in Council, or is a previous notice from the Governor inviting persons to make application for permission to purchase lands in that district intended merely as a delusion?

I have, &c.
(Signed) JOHN BINGLEY.

His Honour C. J. LaTrobe, Esq.,
&c. &c. &c.

Superintendent's Office, Melbourne,
September 12, 1850.

SIR,

IN reply to the first inquiry contained in your letter dated the 6th instant I have to inform you that up to the present date no application to purchase under the pre-emptive right has been made by the licensed occupant of the lands applied for by you at Mount Mercer and its vicinity.

To your second inquiry I regret that I am not in a position to return you any satisfactory answer.

I have, &c.
(Signed) C. J. LATROBE.

Mr. John Bingley,
Geelong.

Enclosure 5 in No. 1.

Encl. 5 in No. 1.

Superintendent's Office, Melbourne,
April 11, 1851.

SIR,

I HAVE the honour to acknowledge the receipt of your letters dated respectively the 14th March last and the 7th April with reference to a communication addressed by you to the Right Honourable the Secretary of State in May 1850, and in reply beg leave to inform you that as soon as I receive any instructions either from his Excellency the Governor or the Secretary of State which may guide me in dealing with the case in question I will not fail to act in obedience to them.

I have, &c.
for the Superintendent,
(Signed) EDWARD BELL.

Mr. John Bingley,
Geelong,

Geelong, April 21, 1851.

SIR,

I BEG leave to enclose a copy of a letter I had the honour to receive from Mr. Hawes Under Secretary of State, in reply to a letter addressed by me to the Right Honourable the Secretary of State, dated the 22d June last, enclosing the refusal of the Governor to transmit through the usual official channel the complaints that I had to make against the local Government. I therefore most respectfully request that you will inform me on what date my letters of the 14th March and 7th April were forwarded to the Governor, and what course the Government intend to take.

I beg further to state that your letter dated the 11th April did not reach me until the evening of the 14th, and that previous to the receipt of your letter I had forwarded a communication to the Right Honourable the Secretary of State enclosing a copy of my

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letters of the 14th March and 7th April, together with such other statements as I considered the circumstances of the case demanded. It will now become my duty to forward your letter of the 11th April, together with this letter, and any other information that the case may require.

I have, &c.,
(Signed) JOHN BINGLEY.

His Honour C. J. LaTrobe, Esq.,
&c. &c. &c.

Superintendent's Office, Melbourne,
April 29, 1851.

SIR,

THE Right Honourable the Secretary of State having intimated that he has received two letters from you, dated respectively Geelong, the 1st May 1850, and the 22d June 1850, bringing under consideration the loss which you have sustained through the provisions of the Act of Parliament for the sale of Crown lands not being practically carried out, without being transmitted through his Excellency the Governor according to the established rule of colonial correspondence, I am directed by his Excellency to inform you that your communications cannot for this reason be noticed, and that if you wish the case to be considered you must forward a fresh application through me to the Government, in order that the same may be transmitted to his Lordship with such explanations and remarks as may appear to be necessary.

I have, &c.
for the Superintendent,
(Signed) EDWARD BELL.

Mr. John Bingley,
Geelong.

Encl. 6 in No. 1.

Enclosure 6 in No. 1.

Geelong, May 12, 1851.

SIR,

I have had the honour to receive your communication dated the 29th ultimo, informing me that the Right Honourable the Secretary of State had intimated that he had received two letters from me, dated the 1st May 1850 and the 22d June 1850, having reference to my application to purchase waste lands of the Crown, and that my appeal must be made through the usual official channel.

Before entering upon a further appeal to the Secretary of State, I beg leave to state that other circumstances have arisen since my letters of the 1st May and 22d June 1850; that is, his Excellency the Governor having issued a notice to the licensed occupants to claim their right of pre-emption to purchase any portion of their runs conceded to them by the Orders of the Queen in Council, thereby placing the licensed occupants in full enjoyment of all the rights and privileges conferred upon them, and consequently bringing into full operation the Orders of the Queen in Council, I therefore beg to be informed if the Government refuse compliance with the third chapter of the said Orders in Council for the sale of lands of the same description as those applied for by me to purchase.

I have, &c.
(Signed) JOHN BINGLEY.

His Honour C. J. LaTrobe, Esq.,
&c. &c. &c

Geelong, May 26, 1851.

SIR,

ON the 12th instant I addressed a letter to your Honour to ascertain if the Government refuse compliance with the third chapter of the Orders in Council for the sale of lands of the same description as those applied for by me, as the Government have now granted the pre-emptive right to purchase to the licensed occupants. Not having received an acknowledgment of that communication, I beg to be informed if your Honour has received it.

I have, &c.
(Signed) JOHN BINGLEY.

His Honour C. J. LaTrobe, Esq.,
&c. &c. &c.

Superintendent's Office, Melbourne,
May 30, 1851.

SIR,

ACKNOWLEDGING receipt of your letter of the 26th instant, making reference to your former communication of the 12th May, I beg leave to enclose and refer you to duplicate of a letter addressed to you two days after the receipt of the letter to which you allude, and posted without delay.

14th May 1851.

I have, &c.
(Signed) C. J. LATROBE.

Mr. John Bingley,
Geelong.

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Superintendent's Office, Melbourne,
May 14, 1851.

SIR,

In reply to your letter dated the 12th instant, inquiring with reference to the sale of land in the intermediate district, I can only reiterate the oft-repeated statement, that the Executive Government of the colony has been hitherto and is still, until the issue of the leases to occupants of Crown lands enables it to carry out the provisions of the Order in Council, chapter III., disabled from bringing land of the description in question into the market.

I have, &c.
(Signed) C. J. LATROBE.

Mr. John Bingley,
Geelong.

No. 2.

No. 2.

COPY of a DESPATCH from Lieut.-Governor LATROBE to Earl GREY.

(No. 42.) Melbourne, October 21, 1851.
(Received April 5, 1852.)

MY LORD, (Answered No. 10., May 4, 1852, page 175.)

I CONSIDER it expedient to bring the following subject under your Lordship's notice.

2. Your Lordship will be aware that it has been the practice of the Governor of New South Wales to entertain applications from members of certain of the religious communions in the colony for grants of Crown lands for church purposes; that is, for the erection of churches, schools, and ministers dwellings; and that in such cases portions of land, limited in ordinary circumstances to two acres in the whole, are, with the advice of the Executive Council, so appropriated and conveyed by deed of grant in fee simple to trustees named by the respective applicants and appointed by the Governor.

3. The following are the several denominations to which such grants have hitherto been made for purposes of religion and education in the colony; and, I may add, that according to a comparatively recent decision of the Governor and Executive Council of New South Wales, consequent upon the subject being brought under its notice by the Superintendent of Port Phillip, it was determined that the privilege should be limited to these only.

The Church of England.
The Presbyterians of the Synod of Australia.
The Roman Catholics.
The Wesleyans.
The Independents or Congregationalists.
The Baptists.
The Society of Friends.
The Jews.

4. Applications for grants of land, within this colony at least, have not been confined, however, to the members of the religious bodies enumerated in this list. Other subdivisions of these Christian communities are here to be noted. Amongst these, the Free Church of Scotland perhaps hold the first rank. Other offsets from the Presbyterian body, one or two from the Baptist, and even from the Wesleyan communities, are still to be noticed; some originating in divisions which have taken place in the mother country; others tracing their origin to dissensions which have occurred here.

5. From divers of these applications have at times been received for grants of land for religious purposes, to which it has not been in the power of Government to give the favourable attention to which the parties themselves considered themselves entitled. However anxious to promote religious education in the colony, whenever practicable, and to facilitate the introduction of sound religious teaching, the Executive Government cannot do otherwise than hesitate in entertaining applications of this class from sections of the Christian community whose existence and constitution as distinct bodies, however clearly definable to their own satisfaction, may not be of a character to give sufficient guarantee against abuse, and an assurance of stability which must surely be required before a recognition of their claims and grants of this description are entertained and made.

6. It appears to me, that without some definite rule and regulation, such as that laid down by the Government of New South Wales, a concession of this

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privilege must necessarily lead to abuse, against which it will be very difficult to guard.

7. I have been urged, since the separation of the colonies, to give the subject further consideration, and I therefore bring it under your Lordship's notice, with a view to my being favoured with a distinct expression of your Lordship's opinion, and with a rule for my guidance in dealing with applications of the class I have alluded to.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. J. LATROBE.

No. 3.

No. 3.

Copy of a DESPATCH from Lieut.-Governor LaTrobe to Earl Grey.

(No. 19.) Melbourne, January 30, 1852.
(Received, June 18, 1852.)

My Lord, (Answered, No. 58, September 16, 1852, page 176.)

I have the honour to acknowledge the receipt of your Lordship's Despatch of the 26th July, No. 19, enclosing copy of a letter from Mr. Walter Riddell, bringing under your Lordship's notice the circumstances under which a sale of Crown lands has taken place in the neighbourhood of Melbourne, to Mr. Clarke, and representing the injury thereby occasioned to certain parties previously in occupation of a portion of the property; and, further, desiring me to furnish your Lordship with a full report on the subject.

2. I will at once proceed, in obedience with your Lordship's instructions, to place you in possession of the plain facts of the case and main features of the transaction involved in it.

3. On the 9th May 1850, Mr. W. J. T. Clarke applied to Government for information as to its power, under existing regulations, to allow him to take a special survey of 20,000 acres of land, either in the intermediate or settled districts of the colony. Reference being made by the Superintendent of Port Phillip to the Governor, his Excellency's decision, under advice of his Executive Council, was in due course received, and communicated to Mr. Clarke.

8 Enclosures. These documents being extremely voluminous are not printed.

4. Referring your Lordship to the enclosed copies of correspondence for explanation of the views of his Excellency upon each point submitted by Mr. Clarke, I need only here advert to that which bears upon the case. His Excellency informed Mr. Clarke, that a sale of 25,000 acres by private contract, under the 15th section of the Act of Parliament, 5 & 6 Victoria, cap. 36., could be made by the Governor in the settled districts, and that the purchaser would, as a matter of course, participate in the advantage of pre-emptive occupation conferred by the regulations of the 29th March 1848, respecting pasturage leases in the settled districts, should there be lands available for the purpose. Hereupon, Mr. Clarke proceeded to make application for a special survey of 28,000 acres within the settled district, presumed to be in general accordance with stipulations of the 15th section of the Imperial Act above cited.

5. For your Lordship's more ready comprehension of the matter, I enclose a tracing showing the position of the land in question.

6. Mr. Clarke's proposal was brought in due course under the notice of the Governor and Executive Council, as well as the various objections urged against the proposed sale by the individuals who would be more or less affected by Mr. Clarke's offer being acceeded to.

7. It will be seen to embrace a tract of country within the county of Bourke, its furthest limit being no more than about thirty miles from the city of Melbourne. The land was held in occupation at the time for pastoral purposes by a considerable number of individuals, under authority of the Orders in Council of the 9th March 1847 and the Colonial Regulations of the 29th May 1848.

8. I would further refer your Lordship to the report of the Superintendent of Port Phillip, contained in his letter to the Colonial Secretary of the 5th September 1850, for much information relative to the proposed purchase, and its influence, if acceded to, upon general or individual interests, including those of the gentlemen referred to in the enclosure to your Lordship's Despatch, and

further to the letter subsequently addressed to the above officer, for the grounds on which his Excellency the Governor and the Executive Council judged proper to accede to Mr. Clarke's proposal, with certain modifications and stipulations in favour of existing occupants.

9. I must apprize your Lordship that the purchase having been sanctioned, and all necessary steps taken and obstacles removed, Mr. Clarke has long since paid for the land, and entered into full possession.

10. Without further now discussing the propriety or impropriety of a sale of land so situated at this particular time, the Governor and Executive Council of New South Wales have considered it unquestionably in their power to effect it, and that the objection, raised on the part of Messrs. Riddell and Hamilton, and others, were not sufficiently well grounded to lead them to deny the application. It must further be borne in mind, that according to the existing law and regulations persons in their position were precluded from claiming any other than an annual right of occupancy, for pastoral purposes only, for any land included within that particular class of Crown lands which was the object of Mr. Clarke's purchase. The regulation at the time not only deemed pre-emptive right of purchase in case of sale of lands of this class, whether improved or not, but even rendered the propriety of admitting a claim for value of improvements in cases of sale, in the case of homesteads, accounted to have been originally included within the so-called "boundaries of location," doubtful.

11. It is true that the promulgation of a more recent Order in Council of the 19th June 1850 has altered the position of all parties so situated, and that the claims thereby recognized will interpose great impediments in the way of the selection and sale of such large portions of land within the settled districts of the colony, on the authority of the 15th section of the Imperial Act, 5th & 6th Victoria, cap. 36. That Order, however, did not reach the colony until too late for Mr. Clarke's purchase to be affected by it.

12. I must therefore correct the misapprehension of your Lordship's correspondent in the following particulars. Whatever may have been the expectation of the gentleman whose cause he advocates, assuming that the sale was, as it was held to be, in the power of the Governor, the course pursued was perfectly consonant with the existing law and regulations; and they have no legal cause of complaint. In the second place, their improvements at the homestead station were only partially affected by Mr. Clarke's purchase, their dwelling house being within the intermediate district, and still in their possession, and of course open to purchase by them, whenever brought into the market.

13. At the same time I admit the hardship and the disappointment of what may be admitted to be a reasonable expectation in their case, that the land would remain in their occupation under the ordinary regulations until sold, and that when sold in the usual manner, if they could not claim any pre-emptive right, they might at least have obtained such portions as suited their purposes by fair competition.

14. I may mention, in conclusion, that I was so impressed upon general grounds with the inexpediency of sales of the above description being admitted within the settled districts of the colony, that I assumed authority, as the colony was on the point of separation from New South Wales, to refuse my consent to a second application of a similar character from Mr. Clarke, which his Excellency the Governor General, with the advice of his Executive Council, had sanctioned, subject to my concurrence, though the money was tendered for payment, and that I subsequently declined to listen to or take into consideration overtures from various parties for similar purchases within the settled districts of the colony, under the authority of the Imperial Act above cited, to the extent of 100,000 acres.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. J. LATROBE.

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No. 4.

No. 4.

Copy of a DESPATCH from Lieut.-Governor LaTrobe to Earl Grey.

(No. 20.) Melbourne, February 2, 1852.
(Received June 18, 1852.

My Lord, (Answered, No. 58, Sept. 16, 1852, page 176.)

Referring to my Despatch No. 19*, of the 30th ultimo, in reply to your Lordship's communication of the 26th July, No. 19†, furnishing a full report upon the circumstances attending a certain purchase of 28,000 acres made from the Crown by Mr. Clarke, I have now further to submit a copy of a letter which has been addressed to me by Messrs. Riddell and Hamilton, adverting to the correspondence which they had received intimation had been recently set on foot between their agents in England and the home Government respecting this purchase; adducing reasons which should, in their opinion, have weight in leading me to decline to sanction the issue of the deed of grant for the said purchase to Mr. Clarke pending the receipt of my report on the case by your Lordship, and further reiterating their objections to the purchase in question.

* Page 88.

† Page 168.

Jan. 10, 1852.

2. As I consider the subject, and all the circumstances attending the transaction has been fully brought before your Lordship in my Despatch above cited, the enclosures to which will be found to comprehend, I believe, all the correspondence which Messrs. Riddell and Hamilton are desirous should be in your Lordship's possession in taking their case into consideration, I do not think it requisite to offer here any further general observations with reference to it.

3. With respect to the proposal that I should withhold the issue of the formal deed of grant from the Crown to Mr. Clarke, which has been accidentally delayed until such times as your Lordship's instructions could be received,—a request which I do not feel myself justified in complying with,—it may be proper for me to explain that many preliminary steps had to be taken in completing the requisite arrangements, and in meeting the just claims of the existing occupants of the land, which were of no easy adjustment, before Mr. Clarke could be allowed formally to complete the purchase by the payment of the sum stipulated into the Treasury. These were, however, completed by the 1st May 1851, and at and from that date, payment having been duly made, Mr. Clarke was placed in full and uncontrolled possession. The delay which has since occurred in the issue of the deed of grant from the Crown is nowise chargeable upon the purchaser, but upon circumstances beyond control. He holds the property, however, and is considered by Government to be as thoroughly master of his purchase as though the deed of grant were in his hands. It was to have been issued in due course many months ago by the authorities in Sydney, but was, with others, left unexecuted at the date of separation, and was subsequently sent down to be issued in this colony, and I am not held justified either in law or equity in now withholding it at Messrs. Riddell and Hamilton's request neither is there anything in the instructions I have received from your Lordship to report upon the case, as brought under your notice by Messrs. Riddell and Hamilton's correspondent, to lead me to conclude that your Lordship would, if cognizant of the circumstance, expect me to do so.

I have, &c.

The Right Hon. Earl Grey, (Signed) C. J. LATROBE.
&c. &c. &c.

Encl. in No. 4.

Enclosure in No. 4.

Sir, Cairne Hill, Gisborne, January 10, 1852.

We have the honour to acknowledge the receipt of your letter dated the 24th, in answer to our communication of the 12th November, in reference to Mr. W. J. T. Clarke's purchase, and we observe,—

1st. That his Excellency has received no Despatch from Earl Grey on the subject.

2d. That with reference to our question respecting the issue of Mr. Clarke's deed of grant, the Lieut.-Governor directs you to state, that, although not actually issued, he considers the fact quite immaterial, the Governor being pledged to its issue.

As it appears, however, that the deed of grant has not been issued, we venture to express a hope that his Excellency will now defer doing so, pending the report which we

have been informed is to be called for by Earl Grey in reference to this sale. And we beg most respectfully to protest against the issue of any deed of grant until the matter has been under the consideration and received the confirmation of his Lordship; and we do so on the simple grounds that the alleged sale is not in conformity with the 5th and 6th Vict. c. 36., and in particular,—

First. That it is not an unsurveyed block from the circumstance of Mr. Evans's 640 acre section being situated on it.

Secondly. That the block is not only within the five miles of the township of Sunbury, but abuts upon it, and, what is more, actually includes a portion of the township as originally marked off, and which had been previously (to Mr. Clarke's application) refused to the licensed occupants, Messrs. Jackson, on the ground that it was part of the township.

As we mentioned in our letter of the 12th November that we had been informed that Earl Grey was to apply to the Lieut.-Governor for a report, we think it our duty to enclose a copy of Mr. Under Secretary Hawes's letter on the subject, and we beg most respectfully to request, when the report is sent home, that it may be accompanied by the joint memorial of the occupants to Sir Charles FitzRoy in September 1850, and with all correspondence and applications for survey, a purchase of any part of the block in question, also a letter from Mr. Hoddle, in answer to Messrs. Jackson's application in 1848, together with copies of our letter of 12th November last to yourself, and of this present communication.

We hope his Excellency will see no objection to forward these documents, and waiting your reply,

We have, &c.
(Signed) RIDDELL AND HAMILTON.

The Hon. the Colonial Secretary,
Melbourne.

No. 5.

Copy of a DESPATCH from Lieut.-Governor LATROBE to Earl GREY.

(No. 29.) Melbourne, February 17, 1852.
(Received June 29, 1852.)

MY LORD,

ALTHOUGH the promulgation in due course by his Excellency the Governor General of Her Majesty's Order in Council of the 19th June 1850, respecting the occupation of waste lands of the Crown in the Australian colonies, shortly after its receipt, gave it the force of law throughout the southern as well as the other districts of the colony of New South Wales, it was still considered judicious to limit the operation of certain regulations based upon it, which were simultaneously published in New South Wales proper, leaving it open to the Government of the colony of Victoria, when separated, to frame such as might be better suited to its own circumstances and position.

2. I have now the honour to transmit, for your Lordship's information and approval, the regulations which have since been framed, and brought into operation, with the advice of my Executive Council, and trust they will be considered by your Lordship to carry out the intention of the Order in question.

I have, &c.
(Signed) C. J. LATROBE.

The Right Hon. Earl Grey,
&c. &c. &c.

Enclosure in No. 5.

PROCLAMATION by his Excellency CHARLES JOSEPH LATROBE Esquire, Lieutenant-Governor of the Colony of Victoria and its Dependencies, &c., &c.

I, Charles Joseph LaTrobe, Esquire, the Lieutenant-Governor aforesaid, do by this my Proclamation publicly notify and declare, that Her most Gracious Majesty the Queen has been pleased, by the Order in Council hereto annexed, to make and establish the additional

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rules and regulations therein contained, for regulating the occupation of waste lands of the Crown in the colony of New South Wales.

Given under my hand and seal, at Melbourne, this ninth day of December in the year of our Lord one thousand eight hundred and fifty-one, and in the fifteenth year of Her Majesty's reign.

(L.S.) C. J. LaTrobe.

By his Excellency's command,

W. Lonsdale.

God save the Queen!

At the Court of Buckingham Palace, the 19th June 1850.

The Queen's most Excellent Majesty.

His Royal Highness Prince Albert.

Lord President.	Earl Grey.
Lord Privy Seal.	Lord John Russell.
Duke of Norfolk.	Viscount Palmerston.
Lord Steward.	Sir John Hobhouse, Bart.
Lord Chamberlain.	Sir George Grey, Bart.
Marquis of Abercorn.	Chancellor of the Exchequer.

Whereas by an Act passed in the session of Parliament held in the ninth and tenth years of Her present Majesty, intituled "*An Act to amend an Act for regulating the "sale of Waste Land belonging to the Crown in the Australian Colonies, and to make "further provisions for the management thereof,*" after reciting that it was expedient that various rules and regulations should be made respecting the more effectually making demises or licences for any term of years not exceeding fourteen of any such waste lands as were within mentioned, and respecting any right of pre-emption which it might be proper to give to the holders of any such demise or licence, it was enacted that it should be lawful for Her Majesty, by any Order in Council, to make and establish all such rules and regulations as to Her Majesty shall seem meet for the purposes aforesaid:

And whereas, in pursuance of the said Act of Parliament, certain rules and regulations have already been made, and it is expedient that further regulations should be made for the above purposes, with regard to the colony of New South Wales: It is hereby ordered by the Queen's most Excellent Majesty, by and with the advice of Her Privy Council, that it shall be competent for the Governor for the time being of the said colony, or other officer for the time being administering the Government of the said colony, to grant leases of land, for periods not exceeding one year, for pastoral or other purposes, in any part of the said colony.

And it is further ordered, that it shall be competent for the said Governor, or other officer aforesaid, to sell to the holder of any lease granted in virtue of this Order in Council any part of the land comprised in any such lease, for its fair value in an unimproved state, not being less than the minimum upset price prescribed by the Government regulations for the time being.

And the Right Honourable Earl Grey, one of Her Majesty's Principal Secretaries of State, is to give the necessary directions herein accordingly.

William L. Bathurst.

Colonial Secretary's Office, Melbourne,
9th December 1851.

Crown Lands.

Leases for other than Pastoral Purposes and for Runs brought within the Settled Districts.

Referring to Her Majesty's Order in Council, dated 19th June 1850, and published in the Government Gazette of this date, which renders it competent for the Governor to grant leases of lands, for periods not exceeding one year, for pastoral or other purposes, and also to sell to the holder of such lease any part of the land comprised therein for its fair value in an unimproved state, not being less than the minimum upset price prescribed by the Government regulations for the time being, his Excellency desires to intimate to the public, that the powers conferred by this Order in Council were given for the purpose of enabling his Excellency to allow the value of their improvements to those licensed occupants of Crown lands beyond the boundaries of location on whom Her Majesty's Order in Council of 9th March 1847 did not confer the right of demanding leases, and who thus lost the privilege appertaining to lessees of purchasing land on which they had made improvements at its estimated value in an unimproved state; and it is not his Excellency's intention to use the powers conferred upon him in any other cases than those which, as above explained, it was intended to meet, namely;—

(1.) The cases of persons who hold land beyond the boundaries of location under licence, or under the express authority of the Government, for other than pastoral purposes.

(2.) The cases of persons whose holdings, or parts of them, though previously beyond the boundaries of location as then existing, were, by the Order in Council of 9th March 1847, brought within the settled districts.

2. In order to carry out this intention, his Excellency, with the advice of the Executive Council, has been pleased to establish the following regulations:—

Colonial Secretary's Office, Melbourne,
8th December 1851.

CROWN LANDS.

LEASES for other than Pastoral Purposes and for Runs brought within the settled Districts.

I.—*Lands held for other than Pastoral Purposes.*

(1.) Existing licences for lands beyond the settled districts, held for other than pastoral purposes, will not be renewed in their present form except in special cases, but leases for one year under the above-mentioned Order in Council will be granted for such lands to the authorized occupants, provided that application be made for them not later than the 28th February next.

(2.) The year for which the new leases will date will be from 1st January to 31st December, and they will not be renewed. The rent will be the same as that now paid.

(3.) During the currency of these leases, the tenants will be allowed to purchase, at the price fixed by the Government, such portions of their holdings as may contain valuable improvements, provided they make due application for such purchase at the time of applying for their leases as above directed, if they have not already done so prior to the issue of this notice.

(4.) This privilege will be strictly confined to those portions of land upon which the valuable improvements are erected, and will only be conceded in cases where they may have been placed upon land set aside as a township reserve.

(5.) The valuable improvements above alluded to are to be understood to be dwelling houses, with their immediate out-offices, and do not extend to fencing, or sheds and huts easily moveable.

II.—*Lands brought within the settled Districts.*

(6.) As respects lands held for pastoral purposes which have been brought within the settled districts by the operation of the Order in Council, the leases granted under the regulations of the 29th March 1848 for the current year will be allowed to run out, and on their expiration leases for the ensuing year, 1852, will be granted under the new Order in Council, so as to afford to the occupants the privilege of purchasing, at the price fixed by the Government, such portions of such Crown lands containing valuable improvements as they have hitherto retained under the special provisions made in their favour in the 24th clause of the settled land regulations of the 29th March 1848.

(7.) It is to be fully understood that the pre-emptive right of purchase will be confined to the section, or a portion thereof, on which the homestead is placed, and that no homestead erected after the date of this notice will convey any right of purchase under the pre-emptive right.

(8.) The exact amount of land on portion of a section which may be purchased under this notice will be principally determined by the proximity of the section to a township, and will be decided by his Excellency the Lieut.-Governor, with the advice of the Executive Council, as soon as possible after the application has been made.

(9.) This pre-emptive right of purchase will not extend to any land situated within the five-mile boundary of the city of Melbourne, or within the two-mile boundary of the town of Geelong, or within two miles of the towns of Portland, Belfast, Warnambool, or Alberton.

III.—*Rule as to Measurement.*

The measurement of the lands will also be made in accordance with the general rules laid down in section 7 of chap. II. of the said Order in Council.

IV.—*Town Lands—Measurement and Extent.*

(8.) In towns and their suburbs, the lands must be purchased in allotments according to the general plan of the town, as laid out by the Surveyor-General, and no allotments can be sold to the present holders in such cases, under the pre-emptive privilege now conferred upon them, but such as actually contain valuable improvements.

V.—*Price.*

(9.) The price at which sales without competition will in ordinary cases be made to the lessees will be that fixed by the Government in the usual manner as the minimum upset price for lands in the same locality; but wherever any portions applied for may be con-

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sidered to possess more than ordinary value, the price will be fixed by the assessment of valuers, in the same manner as if the sale were to be effected under section 8 of chap. II. of Her Majesty's Order in Council of 9th March 1847. The price will of course be independent of the cost of the survey, where chargeable on the tenants according to notice.

By his Excellency's command,

W. LONSDALE.

No. 6.

No. 6.

COPY of a DESPATCH from Lieut.-Governor LATROBE to Earl Grey.

(No. 34.) Melbourne, February 26, 1852.

MY LORD, (Received June 29, 1852.)

I HAVE the honour to acknowledge the receipt of your Lordship's Despatch, No. 22, of the 30th August 1851*, transmitting copies of divers letters which your Lordship has received from Mr. James Bingley, preferring certain complaints against the colonial authorities for neglect of his just claim, and of your Lordship's instructions with regard to him.

* Page 168.

2. My Despatch to your Lordship of the 9th August 1851, No. 16, accompanying an appeal from Mr. Bingley to your Lordship in due form, which will ere this be probably in your Lordship's hands, entered so fully into the merits of Mr. Bingley's complaints, and the facts upon which they were grounded, that it is scarcely requisite that I should now, in remarking upon Mr. Bingley's statements, enter upon what would be mere recapitulation. Paragraph 5 of that letter contained an explanation of the circumstances under which the Governor General declined to become the medium of further complaints from the gentleman in question to your Lordship. Your Lordship will, however, see that the instructions subsequently received with regard to the receipts and due transmission of such further complaints received every attention, and that due regard will be had to the general directions which your Lordship conveys on the subject of the transmission of such complaints in general.

4. Paragraphs 17 and 18 of the same Despatch offers the requisite explanation with respect to Mr. Bingley's statement of the neglect of the Colonial Government to effect periodical land sales in the manner provided for by the Imperial Act. To the information therein given I can only now enclose, in obedience with your Lordship's application, a return of the sales of land in Port Phillip from the year 1842 to 1851 inclusive. From this it is seen that in 1849 land sales took place in the Port Phillip district, under proclamation of the Governor General, in the months of March, June, and November, the quarterly sale having been omitted; and in 1850 the return shows that no sale took place in the first quarter, but subsequently were held in May, September, and November. I have stated that, whatever may have been the cause of this irregularity, the local government of Port Phillip was not to blame, and I have assured your Lordship that no such irregularity would be remarked in the altered position of the colony.

Return of sales of land since July 1841.

5. Your Lordship considers it essential, for the purpose of giving proper facilities for the acquisition of land by those who may wish to purchase, that the lots put up to auction at the quarterly sales should considerably exceed the probable demand, so that there may always be land open for purchase by applicants under the rule established by the Act of Parliament, that certain classes of land once offered for sale by auction, but not sold, may be purchased at the upset price. The system hitherto pursued for many years, up to a recent date, has been to interpose no unnecessary obstacle to the sale of any lands which might be either applied for by individuals, or pointed out as recommendable for sale by competent authorities, and there has always been a certain quantity open for selection at the upset price under the provisions of the Act adverted to.

6. At the same time it may be remarked, since the passing of the Imperial Act, and the promulgation of the Order in Council, great obstacles have arisen in the way of a ready sale of Crown Lands, in consequence of the construction placed by the law officers upon the claim conferred upon holders of Crown lands under licence for particular purposes, and the quantity of land brought into the market has been subject to great restriction in consequence.

7. Under the altered circumstances of the colony consequent upon the gold discoveries, your Lordship will be aware, that whatever may have been the case formerly, every minor obstacle must be overlooked, and every exertion must be made to bring land in sufficient quantities into the market, and provide that there may be at all times portions open to selection. I consider this a matter of so much moment, that I am making every effort, at all sacrifices, to prepare for sales every month or six weeks to this end.

I may state, for your Lordship's satisfaction, that since the 1st July last, or date of separation, land sales have been effected, either at Melbourne, Geelong, and Portland, on the following days respectively:—

October.		September.	
Portland - - -	6th 1851	Melbourne - -	16th 1851
„ - - -	7th „	„ - -	17th „
Melbourne - -	14th „	„ - -	18th „
„ - -	15th „	„ - -	19th „
„ - -	16th „		
„ - -	17th „		
Geelong - - -	22d „		

I await your Lordship's final reply to Mr. Bingley's formal appeal, forwarded with the Despatch I have above cited, before I make him aware of the result; for a partial reply, such as I might now be able to furnish, would only provoke a renewal of very useless correspondence.

I have, &c.

The Right Hon. Earl Grey, &c. &c. &c.

(Signed) C. J. LATROBE.

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Encl. in No. 6.

Enclosure in No. 6.

LIST of DATES of SALES of LANDS since the 1st July 1841.

MELBOURNE.		GEELONG.		PORTLAND.	
Town.	Suburban and Country.	Town.	Suburban and Country.	Town.	Suburban and Country.
1842:	1842:	1851:	1851:	1849:	1848:
1 December.	19 October.	22 October.	22 October.	27 June.	27 September.
1843:	7 December.	1852:	1852:	7 November.	1849:
8 March.	1843:	12 February.	11 February.	1850:	14 March.
1844:	28 September.			15 May.	27 June.
20 March.	13 December.			18 September.	7 November.
21 August.	20 December.			1851:	1850:
1845:	1844:			6 October.	15 May.
22 January.	20 March.				18 September.
20 August.	24 April.				1851:
22 October.	1845:				7 October.
1846:	22 January.				
11 March.	25 June.				
3 June.	20 August.				
12 August.	22 October.				
11 November.	1846:				
1847:	11 March.				
24 February.	25 March.				
22 July.	3 June.				
7 October.	12 August.				
9 December.	11 November.				
1848:	1847:				
1 March.	24 February.				
14 June.	21 July.				
27 September.	6 October.				
13 December.	9 December.				
1849:	1848:				
28 June.	1 March.				
8 November.	14 June.				
1850:	27 September.				
16 May.	13 December.				
17 May.	1849:				
23 May.	14 March.				
6 September.	27 June.				
11 September.	7 November.				
12 September.	1850:				
1851:	15 May.				
9 May.	4 September.				
14 May.	5 September.				
15 May.	6 September.				
16 September.	13 November.				
17 September.	7 May.				
14 October.	8 May.				
15 October.	15 May.				
1852:	18 September.				
27 January.	19 September.				
	16 October.				
	17 October.				
	1852:				
	28 January.				
	29 January.				

(Signed) R. HODDLE, Surveyor-General.

Surveyor-General's Office, Melbourne,
18th February 1852.

No. 7.

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No. 7.

Copy of a DESPATCH from Lieut.-Governor C. J. Latrobe to the Right Hon. Sir John S. Pakington.
(No. 111.)

Sir,

Melbourne, September 3, 1852.
(Received December 28, 1852.)

I have to acknowledge the receipt of your Despatch, No. 4, of the 24th March last, first communicating the decision of Her Majesty's Government in the case of Mr. T. P. Bingley, forwarded in my Despatch of the 9th August 1851, No. 16, and then adverting to certain questions of more general interest, to which the attention of Government had been incidentally called as to the effect of the existing pastoral regulations upon the sale of land in the colony, and expressing an opinion that there do not exist sufficient reasons for altering the provisions of the Order in Council under which these pasturage regulations are fixed and enacted.

My attention is at the same time directed to the consideration of a copy of a report received from the Colonial Land and Emigration Commissioners on the subject, which your Despatch encloses, and to the suggestions therein contained. Feb. 28, 1852.

2. Were the question of the issue of leases to the occupants of Crown lands for pastoral purposes, under the Order in Council, but one of secondary or temporary interest, and really affecting only a certain class, my task in replying and in furnishing the report called for on various points might be readily fulfilled; but it is my duty to make Her Majesty's Government aware, that amongst the many questions of greater or less difficulty which the extraordinary and unforeseen circumstances in which this colony is now placed have brought prominently forward under public consideration and discussion there is none of more absorbing general interest at this time, or of apparently greater moment to the peace and future welfare of the colony, than this very subject of the issue of leases for pastoral purposes under the Orders in Council, and the effect which that issue may be held to entail upon the colony.

3. It is, therefore, incumbent upon me to take this opportunity of bringing the whole question in all its bearings fully under the consideration of Her Majesty's Government. I would wish to do this as concisely as possible, though it may be necessary for me to call to mind every important fact and past transaction bearing upon it which may be calculated to place the subject clearly before you.

4. In reviewing the past, up to a very recent date, it will be necessary that the subordinate position in which the local Government of Victoria, then Port Phillip, bore towards the Executive Government of the older colony, and the delays and impediments in the way of ready explanation and communication, which were the natural and unavoidable consequence of that position, should be clearly borne in mind.

5. The very recent period of the settlement of the province, the extraordinarily rapid extension of the pastoral occupation under an almost uncontrollable impulse, throughout the length and breadth of a wide, highly diversified, and but partially explored district, and the astonishing results as regards the growth in importance and revenue within a very limited number of years, must not be lost sight of.

6. Some short time previous to the passing of the Imperial Act, and the issue of the Orders in Council of the 7th November 1847, founded upon it, the Executive Government of New South Wales received due intimation of what was proposed, and took early measures, by the issue of such instructions and inquiries as appeared judicious, to prepare for the new system being carried into effect. The survey department and the respective Crown Commissioners in both divisions of the colony were apprized of the duties which would devolve upon them respectively in proceeding to the completion of the surveys of the general features of the squatting districts, with a view to the determination of the boundaries of runs, the laying down of general lines of thoroughfare, the selection of sites for towns, of reserves of suitable extent for suburban and cultivation allotments or general purposes, as well as for the use of the aboriginal inhabitants of the province. These instructions were dated in July 1847, or three months or thereabouts after the formal promulgation of the Imperial Act, and before that of the orders based upon it.

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7. The Imperial Act 9 and 10 Vict. cap. 106., dated the 28th August 1846, was proclaimed in the colony on the 22d April 1847, and came into force on the 1st May following; and the first set of Orders in Council grounded upon it, dated the 18th March 1847, were published in New South Wales, 7th October 1847. A brief summary of the dates and purport of the general measures prescribed or taken in the colony, with a view to carry out the provisions of these and subsequent Orders in Council, may be held advisable.

Colonial Secretary's Office, Sydney, Oct. 7, 1847.

8. The detailed regulations issued by Governor Sir Charles FitzRoy, with a view to carry the provisions of the Orders in Council into effect, and indicate the course to be pursued by the claimants for leases of Crown lands for pastoral purposes beyond the "settled districts," bore the same date as the promulgation of the Orders, viz., 7th October 1847. The regulations prescribing the mode of tender for forfeited or vacated runs, and those respecting the transfer of runs, and consequent claim for lease, bore date the 1st of January 1848, and the regulations for the occupation of Crown lands for pastoral purposes within the "settled district" of the colony were dated 29th March 1848.

9. Applications for lease in conformity with the regulations of the 7th October 1847 were to be handed in within six months ending 6th April 1848. The period was afterwards extended to the 30th June 1848, to remedy discrepancies, oversights, and misapprehensions, up to which time 826 applications were entered for the lease of lands under the Orders in Council.

10. The next duty imposed upon the Government was the determination of the precise limits of that portion of Crown land beyond the "settled districts" which was to be definitively classed as "intermediate" and "unsettled districts" respectively. The time allotted for which measure by the Orders in Council was the 31st December 1848. The requisite classification of the various portions of Crown land in the province being therefore determined on the 1st January 1849, it remained for Government to take the further measures requisite to carry into effect the system for the future respective modes of occupation of unsold lands.

Proclaimed Dec. 30, 1848.

Settled districts.

11. With regard to the "settled districts," the application of the Orders in Council, and the Colonial regulations of the 29th March 1848, to the state of things in this province, need not here be particularly dwelt upon. The character of the previous and even present occupation of the waste lands now included in them for pastoral purposes under various local regulations, and the nature of the claims which had arisen in consequence, interposed many difficulties in the way of the introduction of the new system, and it has not been until recently, and after the receipt of replies to various references home, that these have been finally overcome. An Order of Her Majesty in Council, of the 11th August 1848, consequent upon representations made at the close of 1847, included the land in the immediate vicinity of the towns of Belfast and Warrnambool within the class of "settled lands."

Applications for leases.

12. The applications for lease, made in accordance with the regulations of the 7th October 1847, received up to the 30th June 1848, after examination, were gazetted in the interval between the 18th July 1848 and 53d February 1849, and the descriptions of the various runs as given by the several claimants published for general information, all parties interested being called upon to enter caveats against any such claim as might appear contestable, in order to the settlement of such disputes by Commissioners duly appointed under a Local Act specially introduced and passed for the purpose, called "Disputed Boundaries Act, 17th June 1848." Within the time specified by the Act and regulations consequent thereupon, 158 caveats were entered, and duly published in the "Government Gazette" of the 15th August 1849. Such as were not withdrawn before the two months had expired, agreeable to notice given 4th April and 2d May 1849, were held final, and submitted for adjustment; and on the 7th November 1849 notice was given of the appointment of Commissioners under the Act, and of the distribution of the caveats received among them.

11 Vict. No. 61. Disputed boundary Act, June 17, 1848.

13. The reports of the Commissioners were all finally handed in for the Governor's information, and the whole received confirmation between the 3d of May 1850 and the 8th of January 1851, and all papers in each case were referred to the respective Crown Commissioners, for their information and guidance, in finally reporting upon the boundaries of runs, and estimating their grazing capabilities, prior to the issue of leases. To assist in the performance of these duties, and in the detailed surveys which were seen to be requisite on

all hands, an order was issued by the Governor, dated 28th July 1849, defining the mode and manner in which surveys might be accomplished at the cost of the parties interested, upon whom the charge was made at the rate of 2*l.* per lineal mile. It was found necessary, however, to subject this proposed charge to reconsideration, and a further order, dated 1st January 1850, reduced it to 10*s.* per linear mile.

14. The duty of carrying out the further measures from this date lay with the Surveyor-General's Office and the respective Crown Commissioners, to whom full instructions bearing upon such points as might be foreseen and provided for were forwarded. It was soon found, however, that no practicable extension of the survey staff would effect the object without an undefinable delay. Shortly afterwards, it being evident that a considerable time must still elapse before leases could issue, even under the most favourable circumstances, and with a view to carry into effect the intention of the 6th section of the Orders in Council of 1847, the Governor issued a notice, sanctioning the purchase, under pre-emptive right, of certain portions of runs beyond the "settled district" for which applications for leases had been duly made.

Colonial Secretary's Office, Sydney, June 18, 1850.

15. In the meantime two additional Orders in Council had issued, the one of date the 18th July 1849, published in the colony 26th April 1850, sanctioning the transfer of leases under certain restrictions, and the second bearing date 19th June 1850, promulgated in the colony of New South Wales 11th February 1851, extending the privilege of limited pre-emption to occupants of Crown Lands beyond the settled districts for other than pastoral purposes, as well as to certain licences of the Crown lands for pastoral purposes whose runs had been unexpectedly included by the Orders in Council within the settled districts, and also authorizing the issue of annual leases to occupants of Crown lands for other than pastoral purposes throughout the colony. The regulations issued by the Governor to give effect to this last important order were advisedly confined in their operations to New South Wales proper, as the Port Phillip district was presumed to be upon the point of separation from the older colony, and it was rightly judged that some modification might be held advisable as far as she was concerned. The regulations ultimately issued in Victoria, after separation, to carry out this order, bore date 9th December 1851.

July 18, 1849.
Colonial Secretary's Office, Sydney, April 26, 1850.
June 19, 1850.
Colonial Secretary's Office, Sydney, Feb. 11, 1851.

16. The summary which I have here presented may of itself, in some measure, show that a considerable period must have elapsed, even under the most favourable circumstances, before the actual issue of leases to the respective claimants could take place. The character of the main hindrances which were necessarily opposed to their prompt issue are at once easily stated and easily apprehended.

Causes of delay in issue of leases.

17. The nature of the legal instrument contemplated, and of the conditions under which it was to be held, demanded, in the words of a Government notice on this subject, "that the boundaries should be sufficiently defined to satisfy the "rule of the law which holds any grant or conveyance from the Crown to be "absolutely null and void if the property to be conveyed be not described with "certainty and correctness." Of the 826 claims first enrolled up to 30th June 1848 it is not probable that one eighth part assigned boundaries of this character. The great majority were neither accompanied by a clear definition of boundary or area; and even where attempts were made to give the former there was every probability that one line or other might be disputed. Many were of the vaguest description. When the circumstances under which the country was so recently taken up are considered, this can scarcely be matter of surprise.

Colonial Secretary's Office, Jan. 1, 1850.

18. Moreover, before any detailed surveys of runs, preparatory to the issue of leases, could be undertaken, it was necessary, not only that the general features of the province, which included many rugged and mountainous tracts, should be correctly laid down, but that the proposed reserves to be exempted from lease should be clearly defined. Every practicable extension of the survey department made to this end could only secure a certain progress. The latter duty involved a far closer knowledge of the details of the country than could be possibly obtained without much time and labour.

19. The disputed Boundary Act of June 1848, and the trouble and expense which it entailed upon both the Government and individuals, was not productive of the advantages which might have been anticipated. In fact, as far as Port Phillip was concerned, the time had hardly arrived when it could have been made generally effective. It is true, as I have before stated, a certain

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number of caveats were entered, examinations made, and decisions given. But a great number of these were felt, both by the Commissioners and the parties concerned, to be inconclusive and unsatisfactory, from the fact that no actual survey of boundaries or of lines in dispute had been made, or could be achieved under the circumstances. Further, it was generally conceded that a very large number of questionable boundaries were never brought forward for supposed adjustment, in many cases because one or other of the parties really interested would not take the trouble to come forward, and in others because until actual survey of what was really claimed on either hand the existence of any cause for dispute might remain unsuspected. There are large tracts of country in the province without any marked physical features whatever sufficient to form or clearly indicate boundaries of runs, not only on the plains but in the ranges; and where this is the case nothing but actual survey will obviate discrepancies and overlappings and render the limits of runs undoubted.

20. To make matters worse, and to throw yet greater doubt upon the effect of the measure, and the decisions arrived at by the Caveat Commissioners on examination of disputes, as far as might be, purely upon their merits and bearings upon the Government regulations and prescriptions, divers of these decisions were reversed by actions at law.

Survey of boundaries.

21. To facilitate the actual survey of boundaries which was found to be unavoidable before leases could issue, Government notices of 28th July 1849 and 1st of January 1850, above alluded to, were issued. They, however, failed to attain the object aimed at. The first charge of 2*l.* per lineal mile was felt to be far too high, and none of the settlers would take advantage of it; and the charge of 10*s.* per lineal mile, to which the rate was subsequently changed, was held to be far too low by the surveyors whose assistance it would be requisite to secure, in addition to the regular staff; and justly so, as no one could maintain a party and execute surveys at that rate. The survey offices of the district charged with the completion of the more general survey on the one hand, and the survey of reserves and of lands for sale on the other, were quite incapacitated from undertaking this work; and the Commissioners of Crown lands were again and again urged to advance, with the duty of defining the boundaries of runs, with such assistance as could be afforded, but found themselves met by so many difficulties on all hands that but little progress was made. In fact, scarcely any advance beyond the progress of the general survey in the hands of the Government was made in 1849 to 1850.

22. The same causes seem to have produced similar effects in New South Wales; and the date of the separation of the two colonies arrived, without either Government being in a position to issue leases, though nearly four years had elapsed since the promulgation of the Orders in Council. I need scarcely point out, that the gold discoveries, which followed immediately after, increased materially the obstacles that previously existed in the way of these detailed surveys being effected, in a tenfold degree; and that up to this date all progress in this particular branch of duty has been almost totally out of the question. Those discoveries were followed by the breaking up of all our general surveying parties, more or less, and the restriction of the Government surveyors to the preparation of lands for sale, or of portions sold under pre-emptive right, under the regulations of 28th June 1850, or Orders in Council of 19th June 1850, before mentioned.

23. It may be true that a limited number of runs may exist of which the undoubted boundaries may be surveyed and defined with sufficient accuracy to admit of the issue of leases in due legal form, and of the estimate of grazing capabilities, but they form a very small proportion; and it now appears pretty clear, that whenever leases are issued it must be in a form which will dispense with that clear and absolute definition of boundaries, in a multitude of instances, which has been originally contemplated and described. But to this particular point I may again direct attention.

Claims advanced before issue of lease.

24. The next fact to be adverted to, will be the claims advanced by the occupants of Crown lands for pastoral purposes beyond the settled district, on the strength of the promulgation of these Orders in Council in the colony, even *before the issue of leases*, and the consequent limitation of the powers of Government with respect to the sale of waste lands of the Crown.

25. The very first case which brought this question forward almost immediately after the promulgation of the Order in the colony, and of regulations

founded thereupon, may be selected as most clearly elucidating the difficulties attending the consideration of these points. It was the following:

Colonial Secretary's Office, Sydney, Oct. 7, 1847.

26. A few days only subsequent to that promulgation, proclamation had been duly made by the Governor of New South Wales of the sale by auction of certain lots of land within the limits of the county of Grant, to take place on the 8th December following. These lands had been surveyed and marked out for general sale, when occasion offered, five or six years previously. Under the regulations then existing, it had been competent to the Government at any time to bring them into the market, although until sold they were left in the occupation and covered by the annual depasturing licence of Messrs. Moore and Griffiths; and this was their position at the time they were at the request of private individuals applied for to be sold.

See Encl. No. 1.

27. Shortly after the promulgation of the Orders, which took place in the Port Phillip district on the 27th October 1847, that is, on the 13th November, Messrs. Moore and Griffiths made application for the withdrawal from the approaching public sale of these lots, comprised, as before said, in their run, which was now seen to fall within the class of "intermediate lands," on the plea that under the Orders in Council they, as the licensed occupants hitherto, were entitled to claim from the Crown a lease of the lands comprised in their run, which lands could not be put up to sale, save under certain conditions with respect to notice, and which had not been complied with in this instance; and it was argued that the leases not having been actually issued, their right to the occupation of these lands could not be affected until alienated in the manner provided by section 1, chapter III, of the Orders in Council.

Encl. No. 2.

Nov. 22, 1847.

Encl. No. 3.

Dec. 23, 1847.

28. Under the advice of the Crown prosecutor, the superintendent decided upon refusing their claim to the withdrawal, the facts of the case being, however, reported for the information of the Government at Sydney. No instructions with regard to the matter were received by the date of sale, and in consequence of the steps taken by the claimants in the sale room, on the 8th December, to contest the validity of the sale if effected, the officer conducting it considered it proper to recommend the withdrawal of the lots in question until the Governor's decision on the matter should be known. This circumstance also was at once brought under the notice of the Governor at Sydney.

Encl. No. 4.

29. A reply to this reference, dated the 3d January 1848, was received on the 14th January, containing the opinion of the Attorney and Solicitor Generals on the point that had arisen. This opinion was to the effect, that it was in the power of the Government to sell the land as proclaimed.

30. A further consideration of the question, however, became necessary, by the announcement of the facts attending the withdrawal as before stated, and the continued assertion of the claimants to the exercise of their presumed right; and the whole question which the claims of Messrs. Moore and Griffiths involved, inclusive of that of the power of the Crown to bring lands situated beyond the "settled district" into the market *prior to the issue of lease*, was brought by the Governor before the Executive Council. The enclosed copies of Despatches show the result. The letter of the Colonial Secretary to the Superintendent of the 22d March and its enclosures clearly showed that the Executive Government had still no doubt but that it was in the power of the Governor to bring the lands in question, and others of a similar character, to open sale by auction; but it was not clear in what particular manner it might be well to do so; and on that point a further reference to the opinion of the law officers of the Crown was deemed requisite.

Encl. No. 5.

See Encl. No. 6, April 22, 1848.

31. Certain information was required from the Superintendent as to the position and extent of measured unsold Crown Lands in the intermediate district, all which it was suggested might be proper to reserve from lease under the Orders in Council, to the end that they might be immediately available for settlement whenever a demand for them might arise.

32. In the interval, however, other cases had arisen, which showed the necessity of coming to some determination as to the legal claims acquired by the applicants for lease, and the power of Government to dispose of land in the ordinary manner, if covered by squatting licence, whatever might be the character, position, or circumstances. If I recall few of these cases, it is only that the whole question at issue may be more fully understood.

Encl. No. 7.

33. Early in 1848, near Colac, beyond the settled district, certain measured sections or suburban lots ( ), applied for, and duly proclaimed for sale,

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1st March, were directed to be withdrawn from sale at the instance of the licensee (the consideration of Messrs. Moore and Griffiths' claim being still pending), it being represented that they were covered by applications for lease under the Orders in Council. The right of the Government to effect the sale in this case appeared to be too uncertain to be exercised.

Nos. 9 and 10.

34. The view taken by his Excellency the Governor and the Executive Council of the application of Mr. W. J. T. Clarke to purchase at auction 20,000 acres of the licensed run of a neighbour still further showed the difficulty of reconciling the interests of the public and the wishes of individual purchasers of Crown Lands with the claims of the applicants for lease; and the decision in the case of Mr. Bingley, who applied to purchase certain measured allotments at Mount Mercer, in the intermediate district, both previous to the land being formally included in the class of intermediate lands, and after that measure had been adopted, 30th December 1848, still further elucidated the fact. In both these instances the objection opposed by the applicant for lease of the run, which had hitherto included these respective portions, was deemed fatal to the application, and to preclude the sale.

No. 8, January 31, 1849.

35. In fine, an opinion which was received from the law officers, bearing on the case of Mr. Robinson and Messrs. Moore and Griffiths, early in 1849, and which showed that a difference of opinion existed between the Attorney-General and the Solicitor-General, was decisive, so far as to make the Executive Government conclude that the right of disposing of Crown Land of any description beyond the "settled district" of the colony, without regard to any presumptive claim of the present licensees or applicants for lease, founded on the Orders in Council, was of too questionable a character to be exercised; and it was decided, that until leases were issued no further measures could be taken with a view to sales of any lands which might not be held duly reserved from lease under the 9th section of the 2d chapter of the Orders in Council.

36. The degree to which the powers of Government to bring forward land for sale to meet the public requirements were affected in consequence of this decision, and of other circumstances having regard to lands within the "settled district" of the colony, will be in some measure surmised by reference to the

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statement contained in the letter of the Superintendent to the Colonial Secretary of the 22d April 1848, in reply to the reference and inquiry made

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in the Colonial Secretary's letter of the 22d March 1848, No. 48/942, before referred to.

37. At one time many circumstances conspired to render the further extension of the "settled district" advisable, and in this view the Superintendent

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addressed the Governor, assigning reasons why it might be judicious, even with due regard to settlers whose applications for runs within the "intermediate district" had been recorded, to move Her Majesty to comprise still further portions of this class of land under this head. In August 1850 application was made by parties interested that the Kilmore District, forty miles north-

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east of Melbourne, might also be included in this class of lands; but the reply, in both instances, was to the effect that the Executive Council could not advise his Excellency to propose any further extension of the "settled district."

38. The formal reserve of all measured portions of land included in the "intermediate district" at the date of the promulgation of the Orders in Council, which were deemed recommendable by the Executive Council's Minute of 9th March 1848, returns of which were enclosed in my letter to the Colonial Secretary, dated 22d April 1848, was never effected, I presume in consequence of the difference of opinion which was subsequently shown to exist between the law officers of the Crown.

June 28, 1850.

39. The issue of the Government regulations of 28th June 1850, considerately extending to the licensed occupants of Crown lands beyond the settled districts the pre-emptive right of purchase of certain portions of the runs in their licensed occupation, brought with it no additional facility in the disposal of land

Superintendent to the Colonial Secretary, July 22, 1850. No. 13.

to the public. The Superintendent took occasion to represent, with reference to past circumstances and decisions, that while a very important concession was thereby made to the interests of the squatter, insomuch as he was enabled to exercise a privilege which he in strictness could only claim after actual issue of lease, the public, on the other hand, continued to be debarred from the corresponding advantage which appeared to be given as respects the sale of

land in the intermediate districts under the 1st section, Chapter III., of the Orders in Council, until issue of leases had taken place. Bearing in mind that the power of the Crown to dispose of lands in the intermediate district was so restricted, the consequence of the settler being allowed to exercise pre-emption to any considerable extent under this Order was clear. He would in many instances have become the purchaser of land under his pre-emptive right, not for the purpose of carrying out his pastoral pursuits, but for the object of re-sale to meet the public requirements.

40. However, it was to be inferred from former instructions, as laid down distinctly in the reply to the representations of the Superintendent, that although until the issue of leases the Government would not be able, under Chapter III. of the Orders in Council, to sell to any other persons than the occupants lands forming any portions of runs situated in the "intermediate district," it was open to the Government at any time to bring forward for sale the land contained in reserves formed under the 9th section of Chapter II. of the Orders in Council, and the rules laid down by the local Executive on the subject; that whenever any reserve should have been made, either in the intermediate or unsettled district, the land comprised in it "being thus withdrawn "from the operations of the provisions regarding leased lands, may be brought "forward for sale by auction in the usual way."

December 23, 1850, Encl. No. 14.

41. Meanwhile, the duty of selecting and defining the limits of the land which it might be held advisable to exempt from lease under section 9 of Chapter II. of the Orders in Council, and the instructions to that end, had not been neglected. The Crown Commissioners of the respective districts into which the "intermediate" and "unsettled" classes of land were divided were called upon for their reports; and as occasion offered, and the means were at the disposal of the Government, the limits and extent were proposed to be defined with clearness. Still there were many hindrances in the way of this duty being at once fully and satisfactorily performed, the detailed features of the country being from its recent settlement and great extent after all but imperfectly known

Reserves from lease.

42. All the early instructions received from head quarters were clear upon this point, that reserves, whether in the "intermediate" or "unsettled districts," were not to be confined to township reserves merely, but were to include, wherever the public interests of the colony appeared to warrant, "suburban and cultivation land;" and by a Despatch received in March 1850 the area of such reserves was definitively directed to consist of not more than 25 and not less than nine square miles. Proper measures were taken, as far as possible, to exclude "homesteads" and principal improvements of the settler from township reserves, in order that the privilege conceded to him under the Order in Council of pre-emptive right of purchase might not be seriously affected. Though the formation of the reserves, in anticipation of the issue of lease, might be held less expedient in the "intermediate" than in the "unsettled" districts, the power of Government to bring lands, if required, to sale in the former, under sect. 1, Chapter III. of the Orders, being unquestioned, still, as it was seen that land withdrawn for sale would nevertheless be subjected to the pre-emptive right of purchase by the lessee, it was held advisable to anticipate the public requirements, and to provide for the gradual increase of population, and consequent general settlement and improvement of the colony, in these districts also.

Colonial Secretary to Superintendent, dated
Nos. 15, 16, 17.
No. 18.

43. Time moved on, and in the interval between the promulgation of the Orders in Council in 1847 and the close of 1850, though the hands of the Government in seeking to effect the ready sale of land in every quarter where it may have been required were subject to restriction, as already pointed out, and a deaf ear was turned to applications of private individuals for the sale of portions of country land which were comprised within applications for lease, yet from time to time town or suburban lands, principally on the main lines of internal communication, though originally covered by the applications for lease, and left in the undisturbed possession of the present licensee until sold, were surveyed, proclaimed, and brought to sale by auction in the usual way. The right of the Governor to effect such sales did not appear to be called in question, neither was any claim on the part of the applicant for lease to the exercise of the pre-emptive right of purchase advanced.

44. However, the proposed sale, after due proclamation, of certain suburban lands in the vicinity Kyneton, a new township in the intermediate district on

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the main line of the north road, about 45 miles from Melbourne, of all town and cultivation reserve of 25 square miles, which it was proposed to exempt from lease when issued, gave rise to a further inquiry into the powers of the Crown to effect such sales, and the rights supposed to have been acquired by the original licensed occupants of the land within whose application for lease it may have been originally included. Sale had already, it may be observed, been effected of certain town and other lands forming a portion of this reserve without any question being raised; but on this occasion certain of the original licensees came forward in the sale-room, and applied for the withdrawal of a certain number of the best lots, of which they claimed the right of purchase, under pre-emption, at the upset price. As the questions which arose under this unexpected claim were unforeseen, the officer conducting the sale, with the Superintendent's concurrence, consented to the withdrawal of the lots applied for, under certain conditions, pending reference to the opinion of the Governor and law officers of the Crown at Sydney.

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45. The enclosed selection from the official correspondence, to which more than common interest attached, may place the subject clearly before you. It will be seen that the Superintendent, in forwarding the case, assigned the general grounds upon which he was disposed to question the right of the claimants, not only to the acquisition of the land at the upset price, but to the exercise of any pre-emptive right whatever in respect to them. I would particularly draw attention to the reply received to this reference, and to the opinion of the Attorney and Solicitor Generals, which it enclosed. This shows that the law officers of the Crown, while disposed to admit the actual power of Government to sell the lands in question to the highest bidder, still gave it as their opinion that such sale would not be in accordance with the "spirit" of Her Majesty's Orders in Council. They showed that they held the reservation from lease and from pre-emptive right of "country land," in addition to "town land," scarcely authorized by the just interpretation to be placed upon the intention of the Orders in Council, Chapter II. section 9, and, in short, would confine the exercise of the power conferred on the Governor by that section to the reservation of sites for "towns and villages" within the limits of the "intermediate districts" at least, arguing that the authority conveyed to the Governor by Chapter III. section 1, to bring the whole or any portion of the land held under a lease in these districts into the market at any time, under certain conditions was amply sufficient to enable the Governor to supply the demand for cultivation of lands in the neighbourhood of town and village reserves, and would be little affected by the lessee's right of pre-emption at a fair value. Such being the opinion of the Attorney and Solicitor General, the Superintendent was instructed that the claims of the gentlemen in question, and every other pre-emptive claim of the kind which was not over-ruled by *strong public necessity*, should be conceded. As may be remarked, and as my reply will show, this decision was so contrary to the whole tenor of previous instructions for the formation of reserves, and the interpretation hitherto put upon the power and duty of Government in watching over the public interest, as well as opposed to the public advantage, that I could not do otherwise than request a reconsideration of the whole matter. Occasion was taken to point out how much this decision was at variance with previous instructions, and what would be the effect of such limitation as was now advised in the power of the Crown in reserving lands from future lease in the intermediate districts even. It was shown that an almost unrestricted exercise of the pre-emptive right of purchase, such as the present decision, if carried out, would involve, would amount to a surrender to a very great extent of the system of open sale by auction, and the introduction of one of valuation, which was clearly open to grave objection, and ought only to be had recourse to under very peculiar circumstances, and to a limited extent. I feel the greater freedom to ask your attention to the view of the case set forth in that reply, as the matters which it will yet be my duty to bring under your notice before the close of this Despatch may vindicate its propriety. An answer to this communication was received after some interval, transmitting a further report of the Crown law officers, to which I would also in turn direct attention, admitting the reasonable doubts which might be entertained upon the points in question, and recommending, that as the district of Port Phillip was about to be completely withdrawn from the jurisdiction of New South Wales, it might be proper that the Governor and

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Colonial Secretary to Superintendent, and Enclosure.

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See Enclosure No. 14.

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Executive Council should abstain from coming to any final decision upon the point, and should leave it to be disposed of by the future Government of Victoria in the manner that local circumstances and considerations and the peculiar views of that Government might require.

46. Thus matters then remained at the period of the separation of the colony, 1st July 1851, shortly after which I submitted the points in dispute to the attention of the local law officers, before whom the whole question and the correspondence which elucidated it were laid. The result was an opinion which would vindicate the legal exercise of the power on the part of the Crown to reserve from lease, and sell and dispose of, unaffected by any claim of pre-emption deducible from the provisions of the Orders in Council, not only sites for "towns and villages," but such portions of adjacent lands, whether in the "intermediate" or "unsettled district," as might be required for the formation and support of these towns. At the same time it was intimated, that it would not be in accordance with the correct interpretation of the 9th section of chapter II. of the Orders referred to, were the Government, without reference to the sites for "towns and villages," or present and pressing public requirements, to reserve for sale certain portions of land in those districts with a view of meeting the prospective wants of the community. The unquestioned right of the applicants for future lease and actual licences to hold undisturbed possession of any reserves so made until sold has never been disputed.

No. 24.

47. The view which the applicant for lease of Crown lands himself has been disposed to take of the rights which he has acquired under the Orders in Council, whether before or after the actual issue of licence, may be partly inferred from the statement already presented, but will be more fully brought under notice under the next head of my subject.

48. The views entertained of the powers of Government as to the reserve and appropriation of land beyond the "settled districts" for certain defined purposes, and more especially in bringing lands to public sale *after the actual issue* of lease, is next to be adverted to. Under the opinion of the law officers of the Crown, the Lieutenant-Governor understands, that in the case of lands reserved from lease at any time prior to the issue, whether town, suburban, or adjacent cultivation lots, it is unquestionably within his power to bring such into the market, or to apply them to the purposes indicated in the 9th section of chapter II., unaffected by any claim to a right of pre-emption on the part of the lessee of the run in which they have been originally included, and in whose undisturbed occupation they may have remained until actually sold or otherwise appropriated. That with respect to the "intermediate districts" the mode of dealing with any lands not included in reserves made either before or after issue of lease which it may be judged proper to bring into the market, and yet not make the subject of special reserve under the provisions of section 9, as aforesaid, is clearly indicated in the 1st section, chapter III., which, at the same time as it admits of sale under certain conditions, explicitly provides for the exercise of a pre-emptive right of purchase in favour of the lessee.

No. 25.

49. In the "unsettled districts" by the Orders in Council the Lieutenant-Governor is precluded from effecting sales of this character during the term of lease, and the justification of any reserve, appropriation, sale, or withdrawal of land from lease which may be sanctioned subsequently to issue must be looked for in the intentions and clear meaning of the closing words of the provision made by that section, which, inter alia, sanctions the withdrawal of land from lease, and its appropriation and sale, for the purpose of facilitating the "improvement and settlement of the colony." It is considered by the local law officers of the Crown, that even with respect to the "unsettled lands" any sales on reserves which may be legally made under this section would be unaffected by any claims to pre-emption on the part of the lessee. But both the just interpretation to be put on the concluding words alluded to, and the power of the Governor to withdraw and sell to the public lands in the "unsettled districts" that may be held open to sale to the lessee alone, or if sold subject to his pre-emptive right of purchase, are points upon which great discrepancies of opinion appear to exist even amongst lawyers. These, as far as Victoria is concerned, is of far too great moment to be left undecided.

50. The view taken by the licensees of Crown lands themselves of the rights acquired under the Orders in Council, and of the claim that may be advanced under the provision of these Orders, whether before or *after the issue of the*

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lease, and of the power of Government of bringing land into the market, may be partially seen from the statements already presented, but still more clearly from certain of the enclosures to this Despatch. It is almost tantamount to this, that, not only from actual issue and date of lease, but certainly from the date when the final classification of the lands beyond the "settled districts" was made (31st December 1848), if not from the date of proclamation in the colony of the Orders in Council of March 1847, in September of that year, the Governmeut virtually lost all power of *sale to the public*, indedependently of the right of pre-emption conceded to the lessees. Admitting the power of reserving and appropriating lands for *public purposes*, or for the purposes specially and clearly provided for by the 9th section, Chapter II., the very right to reserve and sell to the public town land, irrespective of such claim, is, in their view, questionable. Further, that even the power of withdrawing land, and disposing of it to the public, subject nevertheless to the prior claim to pre-emption under a valuation, was confined thenceforth to the sale of lands in the "intermediate districts" alone, under the 1st section of chapter III.; and as to the land which, by the Colonial Government proclamation of 30th December 1849, was declared to form the class of "unsettled lands," though land might be taken for the specific public purposes indicated in the section so often adverted to, no consideration or circumstances would justify the public sale of any portion covered by the lease to private individuals, the right of purchase at a valuation being indefeasably vested for the term of lease in the lessee. These may be extreme opinions, yet circumstances to which I must presently refer have led them to be very commonly adopted and asserted.

51. Such being the difference of opinion upon these points by the law officers of the Crown, the Executive Government, and the applicants for lease, as far as these are represented by the papers I have the honour to submit, I have next to advert to the circumstances which have brought the whole question prominently forward at this time, and made it the subject of anxious and almost fierce discussion throughout the community.

52. I may premise, that the justice and propriety of the surrender of the occupation of the waste lands of the Crown for pastoral purposes, until required for sale, or other purpose connected with the more permanent occupation of the country, and the expediency of securing to the stockholder legal possession under lease, has not, as far as I can recollect, been really seriously or generally impugned. The value and importance of the pastoral interest, which has undeniably been the mainspring of the rapid rise of this colony beyond all others, could never be denied,—as little as that the large capital invested demanded that it should be nursed and protected by every measure consistent with the common weal.

53. I do not think either that the propriety of the concession of an advantage in the pre-emptive right of purchase of homestead and improvements was ever disputed, except it may be by the agricultural class, who, not unnaturally, view with jealousy the easy acquisition of land, which, if turned to agricultural purposes, from the peculiar advantages attendant upon the unlimited occupation of adjoining lands, from which they might be debarred, would place the squatters in so much more favourable a position than themselves.

54. But the further privileges conferred by the Orders in Council of the 9th March 1847, conceding the exercise of a general pre-emptive right of purchase over lands held under lease, restricting the power of Government to sell to any but the lessees during the term of lease, lands of the "unsettled class," and in the "intermediate," only legalizing such sale subject to the pre-emptive claim of the lessee, have not been regarded with equal indulgence or apathy. The inconvenience which was experienced in the colony immediately after the promulgations of the Orders in Council, by the assertion on the part of the licensees of the Crown for pastoral purposes of claims to the exercise of these privileges, before as well as after, the issue of leases, did not weaken the feeling of dissatisfaction entertained by the other classes of the community. It could not be concealed that the open sale of Crown lands was subject to restriction in consequence of these claims; and as time wore on, and the purport and probable effects of the operation of these Orders in Council, and of the claims founded upon them, as well as the power of the

Executive in reconciling them to the general interests, were more keenly scrutinized, debated, and understood, it became evident at once that a feeling in opposition to them was becoming stronger and stronger.

55. The limited exercise of the pre-emptive right in the colony, which I have before shown to have been admitted, and the consequent partial application of the system of valuation which it involved, during the past eighteen months, reasonable as it may have been, furnished data and at once gave rise to conclusions and deductions which strengthened this feeling of dissatisfaction and opposition.

56. The consequences of the gold discoveries, which directly or indirectly have exercised an influence upon every question or interest, were soon experienced in regard to this one. It was very natural for the squatter to feel some degree of alarm when he found himself unexpectedly exposed to have his interests perilled to the extent of almost actual and summary dispossession of the pastoral lands by the consequence of that discovery and early appreciating the probable effect of such a sudden and unforeseen increase of population, and the rapid acquisition of great wealth by the labouring class, and the necessity under which the Government might lie of bringing large quantities of land into the market, to feel anxious that whatever rights he might be held to possess under the Orders in Council might be secured to him by the prompt issue of lease. On the other hand, the opponents of a system which, if carried into effect, would create to all appearance a privileged class in the community, to whose presumed rights, in one particular respect, all other interests were to be held subordinate, gained in number and strength, and were loud in deprecating an issue which was considered subversive of the natural rights, expectation, and real wants of the community in general.

57. The course pursued by the one side may be elucidated by the memorials addressed to the Lieutenant-Governor, and the representations urged upon his attention by influential individuals or bodies representing the pastoral interest, which I herewith take occasion to bring under notice. The feeling entertained by the other is given vent to in appeals to the multitude, and by agitation, aided by the public press, by public meetings in the principal towns, and the views of both parties by motions and debates in the Legislative Council now in session.

See Enclosures 26, 27, 28, 29, 30.

See Enclosures 31, 32, 33, 34.

58. The principal facts presented by the proceedings of this body may be thus briefly stated:—

On the 28th July 1852 a motion was brought forward for an address to the Lieutenant-Governor, requesting him to represent to the Queen in Council the urgent necessity of extending the area of settled lands in Victoria; in fact, that not less than the whole of the "intermediate districts," inclusive of the more profitable gold fields*, should be embraced under that title. The object of the mover was undoubtedly, on the one hand, to render a large extent of land, now mainly devoted to pastoral purposes, available for open sale by auction, whenever the public interests might require, and, on the other, to narrow the limits within which the obnoxious pre-emptive right of purchase might be exercised.

See Votes of Council, Enclosure No. 35.

A debate followed, during which several amendments were proposed, and which terminated by a motion being passed by a considerable majority, inclusive, in fact, of the greater portion of the members present who might be supposed to represent the pastoral interest, "that leases be immediately issued to the occupants of Crown lands, to bear date on *the 7th of April* 1848, in order that lands may be opened for sale under the Orders in Council of the 9th of March 1847, in quantities to meet the demand of the increasing population of the colony." From some accident this motion was not thrown into a form which would allow of its being embodied in an "address" to the Lieutenant-Governor, and it therefore appears on record in the Council papers as a mere expression of the opinion of the Council.

59. However, on the 17th August it was moved, pursuant to notice, that "an address should be presented to the Lieutenant-Governor, that he would be pleased to withhold the granting of all lands to persons who have claimed or may claim lands under the so-called 'pre-emptive right' conferred, or supposed to be conferred, by the Orders in Council 1847, until this matter shall

* The Mount Alexander gold fields are situated within the "*unsettled districts.*"

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have been brought under the notice of Her Majesty and Council." In the course of the debate which ensued this motion was amended, and it passed without division, "that the Lieutenant-Governor should be prayed to withhold the grant of all lands under 'pre-emptive right' beyond the homesteads, or such quantity of land as might appear proper in each particular case, until the whole subject had been referred home."

This address was in due form presented to me.

60. The consideration which it involved, taken in connexion with the general excitement upon the points at issue, the doubts which were entertained as to the real powers of Government under the Orders in Council, and the present state and future prospects of the colony, were felt to be of very grave character. The prompt issue of leases, to which the opinion of the Legislative Council on the 28th July inclined, was, as will be inferred from what I have elsewhere reported, quite out of the question. Desirable as that issue might be held to be, even though the leases bore a date less open to objection than that proposed, and were framed in a manner which, however involving a departure from the original prescription and ordinary usage, would still satisfy the lessee as to his position toward the Crown, and enable Government, in the "intermediate district" at least, to carry out the provisions for sale under section 1, chapter III., into effect, it was not in my power to expedite it. Again, in their last discussion, and address to the Lieutenant-Governor, the Council appeared to lose sight of the fact, that the prompt issue of leases which they had previously prayed was at variance with the course which they now advocated, in praying the limitation of the pre-emptive right of purchase pending reference of the whole question involved in the carrying out of the Orders in Council to Her Majesty's further consideration.

61. The decision which I arrived at, with the concurrence of my Executive Council, was communicated in my reply to their address, and I trust will meet with the approval of Her Majesty's Government. I believe I may say that, upon the whole, it has been received with satisfaction, and is viewed as being formed under a proper appreciation of what is due to the various great interests involved in the questions at issue, and a needful regard to the present extraordinary circumstances and future prospects of the colony.

Votes of Council, No. 31, Enclosure No. 35

It will be seen to be to this effect:—that as time must still elapse before leases can definitively issue, I should, while making every effort to comply with the main provisions of the Orders in Council, and while proceeding with the preparations for such issue, yield to the wishes of the Council, and bring the whole subject under the attention of the Home Government, conceding to the applicants for lease, in the meantime, the privilege of purchasing under pre-emptive right their homestead section, or other limited portion of their run, proceeding with the formation of the reserves under the 9th section of chapter II. of the Order in Council; and, lastly, in conformity with the power which I consider the Lieutenant-Governor to possess, bring such portions of the Crown land comprised within these reserves as might be clearly required for the public and for the general advantage of the colony to be brought into the market, without being held subject to pre-emptive right.

62. This reply to the address of the Legislative Council has been my answer to all the "addresses" and "memorials" presented to me at this time upon either side of the question. From the full statement which I have presented in this Despatch, some arguments may be drawn in vindication of the course pursued, and satisfy you, Sir, that it has really become incumbent upon me to turn to Her Majesty's Government for advice, and ask for reconsideration and further explanation of various points, which, however they may have been considered of secondary importance at the date when the Orders in Council of March 1847 were framed, now, from the unforeseen course of events, stand forward as closely connected with the peace and welfare of the colony.

63. It remains for me to state my own views of the intention and operations of the Orders in Council under notice, and of the points which I am led to recommend for further explanation or consideration. This I request permission to do freely and without reserve. There can be no question as to the original purpose of the law which authorizes Her Majesty to devise for a term of years or grant licences for the occupation of the waste lands of the Crown in these colonies, which were shown to be so eminently suited to pastoral purposes, and were to all appearance not likely to be required for many years for permanent

and general settlements; that it was passed, first, to secure their legal and regular occupation; secondly, to afford the legal occupant that degree of security in his temporary possession which might be just and reasonable, until those lands might be required for other purposes; and, thirdly, that every possible degree of encouragement might be extended to stockholding, and pastoral interests, and to the production of an export of great importance to the mother country, consistently with that regard due to other interests to which, as the population increased, it could not but be held to be subordinate. In proceeding to frame the Orders in Council of March 1847 there can be no doubt but Her Majesty's Government was actuated by no other principles.

64. In the classification of the waste lands under chapter I.—I write with regard to the Port Phillip district or Victoria alone—it is evident that the Council were not in possession of clear information which might have enabled it to set apart under the class of "settled lands" *all* those portions of the new province which were clearly destined to become the first theatres of settled occupation. It followed that some were included which never could be or will be so occupied, and to which the rules afterwards laid down for their management could never be brought to apply; and other portions were excluded which would most undoubtedly have been comprised within their limits had the proper information been at hand. As to the class of "intermediate land" if any error has been committed in its definition, the error will rest with the Colonial Government. I am justified in admitting, that, viewing the circumstances which have since occurred, and none of which could have been anticipated, it might have been wiser to have included the whole area of the province beyond the "settled district" within these limits.

65. The propriety of granting a lease to the occupant of the waste lands of the Crown for pastoral purposes within the "unsettled districts" for the long term of fourteen years need not in itself be subject to question, provided due care were taken that such continued licensed occupation carried with it no other advantage, which might prove, sooner or later, inimical to the general interests. But section 6. orders that during the lease the land shall be saleable only to the occupant; and this brings me to the question of pre-emptive right, and of that system of valuation consequent upon it, which must form the main points for further remark. Though it will be found from a passing observation already made, and still more clearly from the expressions of opinion in certain of the enclosures of this Despatch, that with a certain class of colonists the concession of such pre-emptive right of purchase, under any circumstances, is held to have been uncalled for, and opposed to the general interest; yet I have never been led to question the propriety of such concession to the stockholder, to the extent of the purchase of one or two sections containing homesteads or bonâ fide improvements; and for the purpose of raising what is required to supply the wants of the station, even though it might to a defined and limited extent involve a departure from the general system of open sale by auction. On the contrary, I have considered and still think such concession to be both just and reasonable.

66. But beyond this I am not disposed to go, and I think the arguments that may be adduced, under a full acquaintance with the local circumstances of the colony, against any such wide extension of the "pre-emptive right" as that contemplated by the Orders in Council, whether in the "intermediate" or "unsettled districts," are not to be lightly disposed of. I think I shall be borne out in asserting, that beyond a firm assurance that he would not be disturbed in his occupation of the waste land of the colony for pastoral purposes so long as the land comprised in his run was not really required for sale or other appropriation in due regard to general interests, and further, the acquisition, without the necessity of open competition, of the land containing homesteads and improvements, the settlers of this province, as a body, had formed neither wish nor expectation. In fact, that the extension of the "pre-emptive right" over the whole of the land covered by their lease, whether in the "intermediate" or the "unsettled districts," with the exception of such portion as the Crown may be considered legally empowered to reserve from, or withdraw from, occupation, under the 9th section, &c., was neither asked for nor dreamed of in this colony, either by the settler or by the Executive Government. I speak for myself. At this very hour, I believe that if the truth were told the acquisition and

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maintenance of such a privilege, unless claimed now as a matter of conceded right which may seem to be attacked, would be a matter of indifference to the great majority of the class in question, and that if even left undisturbed, the cases in which the privilege would be exercised to any extent would be very few in number ;—always taking it for granted that the maintenance and better carrying out of *purely pastoral pursuits*, which I assume was originally intended to form the primary, if not the sole, object of its exercise, were the bonâ fide end which the purchaser might have in view. As matters stand, however, no provision has been made to secure that this shall be the case.

67. I think I shall be borne out in asserting, that beyond such homesteads, sections, &c., land purely and solely fitted for pastoral purposes, wherever situated, would not be in one instance in a hundred purchased by the lessee, and in the instance where it might be purchased it would be with other views than the mere advantages which its acquisition might lend to pastoral pursuits, and because the extraordinary or ordinary march of events gave that land a present or prospective value which would render its acquisition desirable. The question arises then, if such be the case, why should the lessee of the Crown have the advantage of that purchase under a pre-emptive right ? I cannot, for my part, assign a satisfactory answer.

68. But it may be urged that the Crown retains under the 9th section of the Orders in Council ample and sufficient power to obviate this objection, and that if it is not exercised the Government is to blame.

I have shown how much uncertainty, differences of opinion, and discussion have already arisen from the want of sufficient clearness as to what are really the powers of the Crown under that section, and doubts existing as to whether even in acting for the public advantage in accordance with the strict letter the Government may not be adjudged to be doing what is contrary to the spirit of the law.

69. But I may pass over the point, and turn to another. It must be conceded that even in the "intermediate district," in which lands not originally comprised within reserves from lease may be brought into the market, they are still subject to the pre-emptive right of purchase. In appearance, any disadvantage that might result to the general and public interests from the sales of such lands, or from the sale of lands of any class, wherever situated, under that pre-emptive right, would appear to be obviated by the system of valuation to which such lands must be subjected before they can be claimed by the lessee. Nevertheless, I am constrained to show that it does not follow that this is the case. In one of the Despatches, the receipt of which is acknowledged at the beginning of the present communication, this point is casually adverted to. In accounting for an alleged sacrifice of the public interests in the sale of land claimed under pre-emptive right, under valuation, which valuation, by comparison with subsequent resale, or the price of adjacent land, would show to have been below its real value, the remark was made that such would be the probable result of the operation of the Order in Council, and that no system of Government valuation would secure to the public the advantages or the price which an individual might obtain in the sale of such land. Upon this the Emigration Commissioners properly comment in their enclosed report (28th February) to the Under Secretary of State, and offer reasoning to show that the evil adverted to may not be in the system, but in the administration of it.

March 24, 1852. No. 4.

70. To the particular case, then, under review, I cannot at this time make more detailed reference ; but since the date of that communication I have had far greater opportunity than before to test the advantages or disadvantages of that system of valuation, and the power of Government to work it satisfactorily. The unforeseen occurrences of the past twelve months, and their influence on the position and temper of the colony, have been such as to force this particular point on my consideration. The result is a conviction, which I believe will be participated in by every dispassionate mind in this colony, however its interests may be affected, that the system of valuation can scarcely be carried out to the satisfaction of Government, or command public confidence. In an old settled country there might be no great difficulty ; but in a new country, situated as this is, undergoing such rapid changes, and subjected to the influence of such an extraordinary course of events as this now is, nothing can be more uncertain than the value of landed property. It is impossible to value that of which the value has never been tested, and for the estimate of which no certain and fixed

See Encl. 36.

data of any description exist. The land which to-day is valued and fixed at one pound is seen before a month's end to be estimated at fifty pounds. Even lands sold at public auction are seen, every hour, and on every hand, to be transferred at hundreds per cent. over the original cost. The system of open sale by auction has at least this advantage, that whatever fluctuation the times may produce, the Government does not come into collision with popular feeling or popular suspicion, right or wrong. But no system whatever, however seemingly just and carefully administered, will relieve the Government from the odium of having betrayed the public interests whether from incaution or ignorance, or by design, if the land valued to-day at a given price should prove in the hands of the fortunate purchaser under pre-emptive right to be considered worth fifty times as much to-morrow. And in the state in which this colony now is, the occurrence of such cases is unavoidable, and I make no doubt must have their effect upon the mass of the population, already disposed to dispute the justice of the pre-emptive right of a limited and distinct class, and to chafe under the imaginary or real obstacles which the advantages claimed by them interpose to the unlimited purchase of Crown lands, to which the ready acquisition of great and unexpected wealth has disposed the whole community.

71. I cannot go further into detail; but I would earnestly seek to impress upon Her Majesty's Government, that the concession of a right of pre-emption so extended to the licensee, claimed as it is even now by the mere applicants for lease, was scarcely justifiable or called for, even were it not found to involve so great an abandonment of the system of open sale by auction, which had worked so well and advantageously for the colonial interests, and the introduction of a system of valuation which must bring the Government and the public feeling, if once aroused, into collision, and which never can be satisfactorily administered under the present extraordinary circumstances of the colony.

72. Taking the view which I am necessitated to do of the whole question, and of the consequences which the carrying out of these Orders in Council in their integrity in Victoria might entail, I cannot discharge my duty otherwise than by pressing the facts set forth in the above statement, and in the enclosures to this Despatch, upon the most serious attention of Her Majesty's Government.

I would make every allowance for the weakness, want of correct information, or unsound reasoning shown by either of the parties standing in open opposition to each other, and for the influence of passing occurrences upon the temper of the colonists.

I admit the extreme view which the stockholder is now disposed to take of rights or claims, which, however originally unsought, are now held to be conceded, and therefore to be asserted at all hazards.

I concede, on the other hand, that there may not only be much ignorance and prejudice in the view taken of the real result of the concessions made under the Orders in Council in favour of the pastoral interest, provided that the power of Government to sell land when required were once shown to be undoubted. Further, that the object aimed at by some who mingle in the discussion on what must be called the popular side, though not at this time fully declared, is nothing short of the entire sacrifice of the pastoral interest in favour of the passions and cravings and supposed advantage of the large monied population springing up amongst us.

But I am constrained to look upon the whole question as one of a very serious character, and to conclude that the revision of the Orders in Council of March 1847, as far as it may be legally practicable, is most undoubtedly called for.

73. That the pastoral interest should be protected requires no demonstration. Its due maintenance is, for the present, as necessary to the welfare and prosperity of the province as for the advantage of the mother country. It never can be overlooked, that but for the supplies which it has been enabled to pour into the gold districts, to the assistance of the thousands upon thousands rushing without due preparation and foresight beyond the reach of the ordinary means of sustenance, the riches of the gold fields themselves could never have been developed as they have been. The peculiar and embarrassing circumstances in which this great interest is seen to be placed in consequence of these very gold discoveries may present further argument why it should meet with every degree of consideration. The fullest assurance should be given that the occupant of the waste lands of the Crown for pastoral purposes, whether in the " intermediate " or " unsettled districts," will be protected in his occupa-

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tion till such time as the progress of the colony may demand the appropriation of the land to other purposes; and to this end it is imperative that a lease should issue in such form as may at least place his position with regard to the Crown and the public beyond all doubt.

To the concession of a pre-emptive right of purchase to a certain limited portion of land I find no objection opposed of sufficient weight as the case now stands, to justify denial. The precise amount within the maximum area decided upon should be determined under such rules of general application, and further special consideration in each case, as the Lieutenant-Governor and Executive Council may prescribe; but beyond this, I think it were well if all claim to the exercise of a pre-emptive right of purchase over lands beyond the settled districts of the colony held under lease should be extinguished. The restriction upon the power of sale to any but the lessee himself should be done away with; and beyond the limited exercise of pre-emptive right of purchase of sections containing homestead and improvements, already adverted to, no departure from open sale by auction admitted, either in the case of land applied for and sold at the solicitation of the lessee, or that which may be brought into the market by the Lieutenant-Governor, from a view of the public requirements.

74. If the Orders in Council, when properly interpreted, are seen to have given to the stockholder rights which cannot now be justly taken away,—I believe I speak the sentiments of the colonists as a body,—let compensation be made, at any sacrifice; but, at every risk, let these exclusive rights, where they are seen to operate to the public disadvantage, in appearance, if not in reality, be done away with.

75. Further, the power of the Crown to resume possession, for appropriation to the public service, or to dispose by open sale of such portions of land, in any quarter of the colony, as may clearly be judged necessary for the public advantage, must be placed beyond all contestation. The circumstances of the times and the changes now operating on the character, means, and prospects of the great mass of the colonists, urgently require that this should be the case. The pastoral interest, great as it undeniably is, cannot be opposed to the forward and irrepressible movement of regular settlement in any direction, or advance a claim, sustained by the annual payment of a rent, it may be, of less than one farthing per acre, to retain possession, with the privilege of purchasing without competition, of lands which, did no such claim exist, might be thrown open to settled occupation and improvement, under a system of sale which would at least restore all interests to the same level, and give room for no charge of mismanagement or favouritism on the part of the Government of the colony. The pastoral interests must become more restricted, as the agricultural may be presumed to acquire strength, by every sale of land.

76. But were these changes effected, I do not anticipate that the pastoral interests would be seriously perilled or injured for many years to come, for it would be the duty of Government, as well as to the benefit of the colony, that the power which it might possess of bringing land into the market should not be lightly exercised; the undoubted requirements of the community always being held distinct from the wishes and speculations of individuals. In many parts of the country, especially those traversed by the auriferous strata, or adjacent to them, undisturbed tenure for any length of time might be very doubtful, for no law or regulation could protect the occupant for pastoral purposes from the effects of the discovery of the precious metal in any abundance, and the consequences which must immediately follow, or which might be entailed before long, by the necessity of providing for the wants and meeting the reasonable cravings of a large population, precipitating itself upon a given portion of the country.

But I repeat, that such curtailment of the rights proposed to be conveyed by the original Orders in Council need not of itself be seriously detrimental to the interests of the stockholder. At the same time, it would do away with what is believed to be a grievance, even if it be not so, and that by a body of which the weight and power is increasing day by day, through large accessions from without, and the rapid acquisition of wealth; a body which will always command the support of the press, because it pays for support, is more likely to be swayed and to act by impulse, and over whom the law and the Government will only maintain their ascendancy in proportion as it may be clear that both the law and the Government which administers it are impartial, and opposed

to the protection and advancement of one class of the community in preference to another.

77. I need scarcely point out the secondary reasons which might be urged in favour of an unrestricted power of readily meeting the call for the expenditure of the Gold Field in the purchase of land, even though it might be admitted that some time might elapse before that land, if withdrawn from pastoral occupation, and sold, were turned to a higher purpose. Every purchaser has a stake in the maintenance of order, and in the security of the institutions under which his rights as such are assured to him.

78. I may still observe, that the difficulties and objections which are encountered in seeking to determine the fair price to be given for land, under the system of valuation required by Her Majesty's Order in Council, apply with equal force to the same system when applied to the estimate of the capabilities of a run, in order to ascertain the proper rent to be paid, in proportion to the number of sheep or cattle which it can carry. That number varies in different localities; it is dependent so much on the season and on local circumstances, that nothing short of such an accurate knowledge of the country as can be obtained solely by actual residence will enable the valuator to arrive at a fair decision. The full capabilities are not in many instances known even to the owner himself. The annually increasing quantity of stock each year depastured on most runs proves incontrovertibly that hitherto these capabilities have been much undervalued. An occupation rent, that is, a rent in proportion to the number of stock actually depastured each year, a return being made and verified on oath, in a similar form to that now required for assessment purposes, would appear free from serious objection. The present demand for runs would effectually ensure the Government against the probability of any land being permitted to remain unoccupied, as well as against the run not being sufficiently stocked. The amount of rent would be found each year to increase; and, judging from the past, a much larger revenue would be received, and a more just and satisfactory course pursued towards the occupant, than if the capabilities of the land were valued, as now contemplated, before the commencement of the lease, and the rent then determined.

79. A modification in the sections 2. and 3. chapter II. in this respect is felt to be recommendable, and it would have the further advantage of facilitating the issue of leases without actual survey of boundaries. I have elsewhere remarked upon the utter impossibility of proceeding with such actual survey.

In all cases where runs have been surveyed, and the boundaries are not in dispute, a description sufficiently accurate to satisfy the requirements of the law might be readily procured; but adverting to the impossibility of surveying the whole country within a reasonable time, and the many conflicting claims between expectant lessees, it would seem to be desirable to introduce a provision, that where a description as required by law, either by survey, reference to name or occupation, or other mode, cannot be obtained, the occupant, if entitled to a lease, should be permitted to continue in possession of his run, under the existing system of annual license, to be renewed for the same number of years as the intended lease had to run, and with the same privilege as the lessee would be entitled to if the lease had actually issued.

80. I venture upon these suggestions, because, if the matters which they involve are left undecided, whatever course might be pursued with respect to the main points herein brought under consideration, practical difficulties would still interpose in the way of prompt issue of lease, which I have already intimated I consider it my duty to make every effort to provide for, and which it is most undesirable to postpone one instant longer than may be found requisite, after the result of this reference to Her Majesty's Government may be made known.

81. I cannot conceal from myself, that in taking these statements into consideration Her Majesty's Government may be disposed to ask, how it may be that no corresponding inconveniences or difficulties to those here so strongly insisted upon have been experienced in the adjacent or older colony; and, turning to the measures which you will doubtless be apprised have been taken by the Governor-General in that colony since its separation from Victoria with respect to the proposed issue of leases to the occupants of Crown lands for pastoral purposes beyond the "settled districts," and, further, the formation of extensive reserves in the "unsettled" as well as the "intermediate district," feel disposed to inquire why the same course and a similar measure might not have been pursued by the Government of Victoria.

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82. My reply must briefly be,—first, that it by no means follows that the rules and regulations which might be found to apply to the state of the community in New South Wales, where it is understood that the great bulk of the really good and available land within a reasonable distance of the coast has been already disposed of by grant or sale, and where the pastoral interest would appear to be in a great measure confined to districts which for the present may be suitable for pastoral purposes alone, would be applicable to the colony of Victoria, which would appear in a variety of important respects to be so differently circumstanced.

83. Moreover, I must remark, that the law officers of the Crown in this colony profess to be quite at a loss to apprehend the manner in which the formation of the "reserves" alluded to, under the special conditions attached, can be held justified by the tenor of the 9th section of the chapter II. of the Orders in Council, if questioned by the occupant. It may be, that in the older colony, neither the occupant nor the public appear disposed to raise the question; but of this I am certain, that, possessing no assurance that I hold the legal power to pursue a similar course, it could not be carried out in this colony.

As may be gathered from a review of the opinions and claims advanced on one part or the other in certain portions of this Despatch, it would be liable to be disputed by all classes whose interests might appear involved.

84. I may state, in conclusion, however, that I shall consider it my duty to bring the view which I have been led to entertain of the necessity for a revision, as far as this colony goes, of the Orders in Council, and the representations which I have considered it my duty to present to Her Majesty's Government, under the early notice of his Excellency the Governor-General, in order that, should his Excellency consider that it is desirable that Her Majesty's Government may be made aware of the impression he may entertain, and form a judgment in how far the alterations I have urged may, if adopted, exercise an influence upon the state of things in New South Wales.

85. It is still my duty to state that the views and recommendations which I have had the honour of presenting to you in this Despatch are fully concurred in by the members of my Executive Council.

I have, &c.
(Signed) C. J. LATROBE.

Right Hon. Sir John S. Pakington, Bart.,
&c. &c. &c.

Encl. 1 in No. 7.

Enclosure 1 in No. 7.

SIR, Bacchus Marsh, 13th November 1847.

WE beg to call your honour's attention to the following statement of facts with reference to two of the lots of land advertised for sale by the Governor's proclamation of the 23d of October last.

The lots alluded to are styled,—

90 Grant 229, Parish of Parwan, per No. 28.
91 Grant 229, Parish of Parwan, per No. 29.

Now these portions of land are comprised in the run of which we are the licensed occupiers, and fall within the devision of intermediate lands made by the Order in Council of the 9th March; under that Order in Council we as such licensed occupiers are entitled to claim from the Crown a lease of the land comprised in our run, which lands could not be put up to sale save under certain conditions with respect to notice, &c. which have not been complied with in the present instance. Had we been in possession of our lease there could be no doubt that any grant made by the Crown of such lands would be bad if the condition imposed by the Order in Council were not complied with by the authorities here; and our position now is this: we have been given by the Act of Parliament and the Order in Council made pursuant to it a right to claim a lease; this right is such an one as a Court of Equity would enforce in the cases of individuals: and in so doing would place persons entitled to a lease in the same position as if the lease had been actually granted at the time when their right accrued. We feel that it cannot be the wish of the authorities here to encroach on the rights of individuals: and we hope that our drawing your Honour's attention to the circumstances will be sufficient to have these sections omitted from the sale of December 8th. We should, however, feel obliged by the earliest notification of the course to be pursued by the Government, as it is of course important to us to know whether it will be necessary for us to take any further steps for the protection of our rights.

We have, &c.,
(Signed) JAMES MOORE.
CHARLES GRIFFITHS.

His Honour the Superintendent of Port Phillip,
&c. &c. &c.

Enclosure 2 in No. 7.

Encl. 2 in No. 7.

Superintendent's Office, Melbourne,
November 22, 1847.

SIR,

I BEG leave to forward to you, with a request that the subject may be brought at once under his Excellency's notice, a copy of a letter which I have received from Messrs. Moore and Griffiths, adducing reasons why they consider that certain portions of land, noted in the margin, ought to be withdrawn from the sale to take place under his Excellency's proclamation on the 9th December next, together with a copy of a memorandum, exhibiting my view of the case, which it appears is coincided in by the Crown Prosecutor, and under which I feel it my duty to notify Messrs. Moore and Griffiths that I do not consider myself justified to direct the withdrawal in question for the reasons which they adduce, but that as there still remained time for the submission of the case to the Governor, I would take advantage of the present mail to forward a copy of it for his Excellency's consideration.

90 grant, 229 acres.
91 do. 229 do.
Parish of Parwan.

I have, &c.
(Signed) C. J. LATROBE.

The Hon. the Colonial Secretary.

SIR,

Melbourne, November 22, 1847.

HAVING perused Messrs. Moore and Griffiths letter of the 13th instant, and your Honour's memorandum accompanying the same, I do myself the honour to state that I am of opinion your Honour's memorandum is a full answer to the complaint of these gentlemen. I cannot see that any condition or terms appertaining to the relation in which these gentlemen stand to the Crown, as the licensed occupiers of their run, have been violated. Surely they cannot think that the Government should give them personal notice. The notice in my mind Messrs. Moore and Griffiths are entitled, is the usual notice given upon any public sale of land in the "Gazette." In fact, I cannot see anything on the Order in Council of the 9th March 1847, giving squatters the right of pre-emption under tenure, under which they the squatters are at present in occupation of their runs. The only right the first of the conditions annexed to the 15th section, alluded to by Messrs. Moore and Griffiths, confers on them, is to give the option of purchasing land for its fair value. I can see nothing, either in the 1st or 15th section, chapter 2, nor in the 1st section, chapter 3, disabling his Excellency the Governor from disposing of the two sections alluded to in the letter of Messrs. Moore and Griffiths of the 13th instant. I further think those gentlemen have got the only notice they can consider themselves entitled to.

I have, &c.
(Signed) JAMES CROKE,
Crown Prosecutor.

The Hon. the Superintendent.

Enclosure 3 in No. 7.

Encl. 3 in No. 7.

Superintendent's Office, Melbourne,
December 23, 1847.

SIR,

REVERTING to the correspondence which I had the honour to forward to you on the 22d November, on the subject of certain sections included in the licensed run of Messrs. Moore and Griffiths, in the parish of Parwan, which were advertised for sale by his Excellency's proclamation of the 23d October last, and to which sale the gentlemen in question objected, for reasons given in their letter of the 13th of November, and to your acknowledgment of the receipt of the same by your communication of the 4th December, No. 673, informing me that it had been found necessary to refer it to the law officers, I have the honour to state that, having received no further information at the date the sale took place, I was unable to give any directions to the sub-treasurer for the withdrawal of the lots in question.

I have since received a communication from that officer, informing me of the course pursued by these gentlemen in reference to the sale of the lots in question, by which it appears that they were prepared to contest the validity of the sale by the interposition of a caution, to be publicly given in the auction room, in order to deter purchasers, and stating the circumstance and considerations under which the sub-treasurer considered himself justified in withdrawing the lots from sale.

I consider the course of proceeding adopted by Messrs. Moore and Griffiths of such an unusual character, that it should be brought under his Excellency's notice.

I have, &c.
(Signed) C. J. LATROBE.

The Hon. the Colonial Secretary.

Enclosure 4 in No. 7.

Encl. 4 in No. 7.

Colonial Secretary's Office, Sydney,
January 3, 1848.

SIR,

IN referring to my letter of the 4th ultimo, I do myself the honour, by the direction of his Excellency the Governor, to transmit to you the accompanying

VICTORIA.

opinion of the Attorney-General and Solicitor-General on the claim made by Messrs. Moore and Griffiths to have certain lands licensed to them in the county of Grant withdrawn from the intended sale on the 9th ultimo, as coming within the denomination of intermediate lands, under the Order in Council of the 9th March last, by which you will perceive that those officers consider that the lands in question can be sold as proclaimed.

I have, &c.

The Hon. Superintendent of Port Phillip. (Signed) E. Deas Thomson.

Opinion.

I have conferred with the Solicitor-General on this matter, and we are of opinion that the land in question can be sold under the Governor's proclamation, but not exactly upon the ground upon which Mr. Latrobe and the Crown prosecutor of Port Phillip rest that opinion, because it seems to us, that, so far from the right of claim of lease not being given till after the expiration of six months from the publication of the land order, the correct construction of section 11 of Chapter II. of the Order is, that the demand is to be made at some time before the end of six months.

The terms of the regulations restraining the sale of land except in the manner provided by the Order apply only to the time when the lands are actually under lease (sections 6, 9, and 15); and such is not the present position of these lands, for it does not seem that as yet Messrs. Moor and Griffiths have ever made the demand, which must be the first step towards obtaining a lease.

It is not to be denied that an indiscriminate sale of lands under licensed occupation within the intermediate and unsettled districts between the publication of the Order and the demand of the lease, would be open to much objection; but here it seems that the sections were applied for, and such application approved of by the Government, before the publication, and from the position of the lands it is not perhaps unreasonable to surmise that they should (under section 9 of Chapter II.) be left open for purchase on grounds of public "utility" or "convenience," or for facilitating the improvement and settlement of the colony.

Care should be taken, when the lease to Messrs. Moore and Griffiths is prepared, that those sections be specially excluded.

(Signed) J. H. Plunkett.

Encl. 5 in No. 7.

Enclosure 5 in No. 7.

Sir, Colonial Secretary's Office, Sydney, March 22, 1848.

Referring to your Honour's letter of the 23d December last, No. 1,377, relative to the withdrawal from sale of two portions of land at Port Phillip in consequence of the proceedings of Messrs. Moore and Griffiths, within whose licensed run the lands are situated, I am instructed to transmit, for your Honour's information, a copy of the Minutes of the proceedings of the Executive Council on this subject.

I have referred to the Crown law officers on the two points on which the Council desired legal advice, and I am now to request that your Honour will report, in accordance with the suggestion of the Council,—

1. Whether there are any lands adjoining those referred to which it would be specially desirable to include in a reserve to be formed in that locality;

2. As to the expediency of establishing a general rule that all *measured* lands situated within any part of the intermediate districts which previously to the publication of the Order in Council were within the boundaries of location should be expressly reserved from lease, in order that they may be immediately available for settlement whenever a demand for them may arrive; and,

3. That your Honour will furnish a return showing the position and extent of the several lands in the Port Phillip district which would be reserved from lease if this principle were adopted.

I have, &c.,

The Hon. Superintendent of Port Phillip. (Signed) E. Deas Thomson.

Proceedings of the Executive Council on the 3d February 1848, relative to the withdrawal of certain lands from sale at Port Phillip in consequence of the proceedings of Messrs. Moore and Griffiths the present licensed occupants thereof.—Minute No. 48/4 E., confirmed 9th March 1848.

Executive Council Office, March 13, 1848, No. 48/89.

Referring to their proceedings on the 18th January last, when the papers in the case were laid before them, the Council resume the consideration of the measures which it will be expedient to take in respect to the land withdrawn from sale by the Sub-Treasurer at Melbourne in consequence of the proceedings of Messrs. Moore and Griffiths.

The Council think it highly expedient for the maintenance of the rights of the Crown that the lands in question should be early offered again for sale, but the manner of doing so appears to require serious consideration.

In the first place the Council advise, that the following questions should be submitted to the Crown law officers for their opinion :—

1. By the 17th section of the Crown Land Sales Act, 5 & 6 Vict. c. 36, the Governor is empowered to grant licences for the occupation of the waste lands of the Crown in the colony ; and it is enacted by the same clause, that no such lands shall be sold until after the expiration of the licence for the occupation of the same. Can the Governor, consistently with the provisions of this clause, offer for sale any lands comprised within the recognized boundaries of a run occupied under an ordinary pasturage licence, or must he await the expiration of the licence before proceeding with the sale ?

2. Messrs. Moore and Griffiths are in licensed occupation of lands situated within the intermediate districts as defined by Her Majesty's Order in Council of the 9th March 1847, and are entitled to demand a lease of those lands accordingly, under the 11th section of Chapter II. of the said order. Two sections of those lands were applied for for purchase in July 1847. In a proclamation dated the 7th October 1847 they were advertised for sale on the 9th December 1847, but were then withdrawn by the officer conducting the sale, in consequence of the proceedings taken by Messrs. Moore and Griffiths, as explained in the correspondence on the case. The Government now desire again to offer the same sections for sale, before the expiration of the existing licence if the law will allow it ; but if not, immediately on its expiration shall the Governor proclaim the intended sale, without any reference to the Order in Council, or is it necessary or expedient that he should first declare that by virtue of the powers vested in him by the 9th section of Chapter II. of that Order he intends to reserve these particular lands from the lease which will be issued to Messrs. Moore and Griffiths ?

The Council next advise that when the time and manner of proceeding with the sale shall have been determined by the Crown law officer's opinion on the foregoing questions, those officers should be further instructed to prepare the form of proclamation to be used in notifying the intended sale. It may also be desirable that they should draw up a document, to be read, if necessary, at the sale, guaranteeing on the part of the Crown that the purchasers will be maintained in possession of the lands, notwithstanding any proceedings adopted by the present licensed occupants.

The Council further suggests, that, subject to the opinion of the Crown law officers, a communication should be made to Messrs. Moore and Griffiths, that they will be proceeded against by the Government for damages should the sale be prejudiced by any proceedings on their part.

The Superintendent of Port Phillip should be requested to report whether there are any adjoining lands which it would be specially desirable to include in a reserve to be formed in that locality.

This case has suggested to the Council the possible expediency of establishing a general rule, that all *measured* lands situated within any part of the intermediate districts which previously to the publication of the Order in Council were within the boundaries of location should be expressly reserved from lease, in order that they may be immediately available for settlement whenever a demand for them may arrive But before pronouncing a decided opinion in respect to the expediency of such a rule, the Council desire to receive the opinion and report of the Superintendent of Port Phillip as to the probable practical working of it in his district.

The Council would further desire to receive a return showing the position and extent of the several lands in that district which would be reserved from lease if this principle were adopted.

(Signed) FRANCIS L. S. MEREWETHER,
Clerk of the Council.

Enclosure 6 in No. 7.

Encl. 6 in No. 7.

SIR, Superintendent's Office, Melbourne, April 22, 1848.

I TAKE leave to acknowledge your letter of the 22d March, No. 48/177, referring to the withdrawal from sale of two portions of land cited in the margin, in consequence of the proceedings of Messrs. Moore and Griffiths, within whose licensed run the lands are situated, transmitting for my information a copy of the Minutes of the proceedings of the Executive Council on this subject, and requesting my report on certain points.

Lot 90, Grant, 229 acres, parish of Parwan, portion 28. Lot 91, Grant, portion 29. March 9, 1848.

In reply to the first inquiry, whether there are any lands adjoining those referred to which it would be specially desirable to include in a reserve to be formed in that locality,—

No. 1.

I beg to state, that the sections in question form part of certain subdivided sections in the parishes of Merrima, Parwan, and Korkuperrimul, within the counties of Grant and Bourke, in the vicinity of the Werribee River. Of these, whether sold or unsold, I beg to forward a return, and to add, that I think it will be well to exempt the whole of the latter from lease. They lie without the "settled district," and of course are comprised within the "intermediate land."

VICTORIA.

The second inquiry is, as to the expediency of establishing a general rule, that all measured lands situated within any part of the "intermediate districts," which previously to the publication of the Orders in Council were within "the boundaries of location," should be expressly reserved from lease, in order that they may be immediately available for settlement, whenever a demand for them may arise.

With reference to the inquiry, and the following instructions (3), I beg to enclose,—

1. A return of all measured lands, both of *sold* and of *unsold*, at this date, within the counties of Burke, Grant, and Normanby, which may be beyond the limits of the respective "*settled districts*," shewing the position and contents, and whether now considered open to selection at upset price; and further,—

A return of all measured lands, sold or unsold, at this date, without the boundaries of the three counties, in the same form, specifying the quarter in which they lay, &c. &c.

There are no measured lands of the above description at this time without the boundaries of the settled district around Alberton.

I have here to remark as to the unsold Crown lands within the "settled district," the regulations recently issued from your office, of the 29th March, interpose no hindrance to their being brought forward for sale whenever required, and it might appear that the Government would be therefore at this date at liberty, either at its own pleasure or on the applications of individuals, to take measures for such sale. Nevertheless, by the decision of the Governor and Executive Council, of the 27th October 1847, communicated to me in your letter of the 17th November last, No. 629, the improved portion of all runs within the "settled districts" are for the present reserved from sale, pending the decision of the Home Government; the quantity of land at the disposal of the Government for sale within the "settled district" even is, to a certain degree, in consequence restricted.

In the "intermediate district" I have gathered from recent correspondence, that the Government would not consider itself justified to proclaim for sale lands held at this time under licence, and for which application for lease had been made.

Now if this be the case, no land whatever of this class can be with propriety brought forward for immediate sale, seeing that all these lands are at present occupied in the above manner; and it may be presumed that for the greater portion applications for lease have been sent in.

I presume that, nevertheless, however subject, as they necessarily have been and are, to temporary occupation, in common with other measured sections in the immediate vicinity not so situated, sections in the "intermediate district" which have been already put up to sale by auction, and remain unsold, may even at this date be held to be open to selection at upset price, under the 11th clause of the regulations of the 1st March 1843, and that the same is the case with measured sections similarly situated in the unsettled district, of which it will be seen there are a considerable number.

If the power of the Government in bringing forward land for sale is so far restricted, both in the "settled" and the "intermediate" district, its hands are equally tied within the "unsettled," whether within or beyond the limits of the proposed new counties; and this is clear from the decision in the case of Mr. Clarke's application for sale of 10,000 acres, at present in the licensed occupation of Mr. Coghill, which shows that until the decision of the Home Government upon the various points referred to it is known no application for the sale of the lands so situated and so circumstanced will be entertained.

I have made the above observations to show that the power of Government to sell country land, wherever situated, until the questions adverted to are decided, the proper reserves made, and the system has come a little more into operation, is almost done away with in this district; and to point out that in this portion of New South Wales, where the quantity of land comprised within the "settled districts," exclusive of the extended and almost barren coast-line, is so limited, very little country land whatever can be for the present brought forward for sale to meet the public requirements.

Under these circumstances, I certainly think that all the measured lands within the three counties, which, with Gipps Land, form the whole of the present intermediate district, and may be considered identical with the country within the "boundaries of location" should be specially reserved from lease, as suggested by his Excellency the Governor and the Executive Council.

The return No. 2 shows the amount of such unsold lands, so situated, as well as the lands sold at this date.

I may remark, that no provision has been made, or apparently contemplated to be made, for the extension of the privileges of the occupation of the neighbouring unsold sections, to the purchasers of the Crown lands in the "intermediate" and "unsettled disticts;" and yet it appears to me to be difficult to assign a reason why such privilege should be exclusively assigned to the purchaser of Crown lands within a certain limit only. A glance at the chart of this district and the return No. 2 will show, especially in the case of the Colac district, now supposed to lie within the unsettled lands, how reasonably a claim for such privilege might be preferred by occupants of purchased sections in that vicinity, particularly if it be decided that many of the unsold measured sections in their vicinity, at this very time are open to selection at upset price under the eleventh section of the regulations of 1st March 1843.

In conclusion, and with special reference to the information given by return No. 3, of all measured lands *without* the limits of the boundaries of the three counties, my own impression is, that it is advisable that none of these measured lands should be included in any lease to be issued. It appears to me that the quantity of measured land in the district is not much greater than ought to be kept available, and open for purchase if required, the rather as it is certain that, viewing the absolute necessity of following up the general survey of the district, and the laying out the main lines of road, and the reserves, that the survey departments will have little or no time to attend to special applications for the survey of fresh portions for purchase for some time to come, unless its strength be very considerably increased expressly to this end.

But in making this suggestion I am aware that difficulties stand in the way, and am not clear that his Excellency will feel himself at liberty to act in accordance with it at this time.

I have, &c.

The Hon. the Colonial Secretary, Sydney, &c. &c. &c.

(Signed) C. J. LaTrobe.

Enclosure 7 in No. 7.

Encl. 7 in No. 7.

Superintendent's Office, Melbourne, February 10, 1848.

Sir,

I beg leave to forward to you copy of a communication which I have received from Mr. J. P. Robinson, remarking that the waste lands described in the margin under the head of "country lots" are advertised for sale, and observing that these sections form portions of a run occupied by Mr. Boyd in the Colac district, and for which Mr. Robinson concludes that he is entitled to a lease under the provisions of the Orders in Council for regulating the disposal of squatting lands in this colony.

Lot 30, Grant, 640 acres, parish of Nalangal.
Lot 33, 640 acres, parish of Warrion.
Lot 35, 640 acres, parish of Warrion.
(See proclamation, January 22, 1848.)
Mr. Gilbert Robinson.

Upon reference to the Survey Office, I find that an application for the sale of the lots in question was made in due form on the 6th October, and that, not foreseeing that any objection would arise from their sale in due course, this sale was recommended by me.

The sections fall within what is now called the "unsettled districts," but what will, and certainly ought, to be properly included in the "intermediate lands" of the colony.

It is for his Excellency to decide whether, under present circumstances, the sections in question should be withdrawn from present sale. It is, however, clear they ought never to be included in any lease granted to Mr. Boyd, whether they are finally determined to be within the "intermediate" or the "unsettled" districts.

In the one case, even if originally included in a lease, they can be withdrawn for sale after the brief notice prescribed in the Order in Council, in treating of the "intermediate" lands; and in the other, they, in common with any other portions of land of the same description, will have to be at once expressly reserved to the public use.

If it be his Excellency's pleasure to withdraw them from the sale to take place on the 1st March, perhaps you will have the goodness to allow me to be furnished with the necessary authority without delay.

I have, &c.,

The Hon. the Colonial Secretary, Sydney.

(Signed) C. J. LaTrobe.

Enclosure 8 in No. 7.

Encl. 8 in No. 7.

Colonial Secretary's Office, Sydney, January 31, 1849.

Sir,

In refence to my letter of the 18th February 1848, in reply to your Honour's of the 10th, No. 48/79, on a claim made by the late Mr. J. P. Robinson to a lease of certain lands in your district, which were advertised for sale as suburban lots, I now do myself the honour, by the direction of the Governor, to inform you that the subject was duly submitted to the Executive Council, and that under its advice his Excellency has instructed me to transmit to you the accompanying copies of the opinions of the Attorney-General and Solicitor-General, which have been obtained upon the subject, and to intimate that no further measures can apparently be taken at present for bringing to sale the land in question, of which you will have the goodness to apprise the parties interested.

I have, &c.,

His Honour the Superintendent of Port Phillip.

(Signed) W. Elyard junior.

Attorney-General's Office, November 8, 1848.

Sir,

We have the honour to acknowledge the receipt of your letter of the 22d March last, referring to the opinion given by the Attorney-General in December last, as to the power of the Government to offer for sale certain portions of land at Port Phillip, comprised within the licensed run of Messrs. Moore and Griffiths, and requesting our further opinion on the matter.

VICTORIA.

In reply, we beg to apologize for the great delay that has taken place in answering your letter, but it was owing to a difference of opinion that you will perceive exists in the case between us.

We have the honour to transmit our separate opinions herewith.

We have, &c.,

The Hon. the Colonial Secretary. (Signed) J. H. PLUNKETT,
Attorney-General.

I RETAIN the opinion expressed by me before, in conjunction with the late Solicitor-General.

Of the power of the Crown to sell and give a good title I entertain no doubt; and as the application to purchase was made and approved before the claim of Messrs. Moore and Griffiths to a lease came into existence, I conceive that the Government is pledged to give the applicant the opportunity to purchase which he sought, and which was virtually, if not actually, promised when no claims whatever interfered with the rights of the Crown.

I cannot help thinking that the effect of the Land Orders in Council has been very considerably and generally misunderstood, because it does not appear to me that the 11th section of chapter II. gives an absolute right to a lease at all, and certainly not to an eight or fourteen years' lease.

That section certainly is couched in very positive terms as to the right to "demand" leases; but it must be read in connexion with the first section of the same chapter, which purports to give the Governor some discretion as to the persons to whom he shall "grant" leases, and an unfettered authority as to the duration of the lease within the maximum limits specified. If the 11th section were construed as giving to the licensed occupant a pre-emptory right to a lease, it would be thereby made irreconcilable with the first section; but if possible it is the duty of those who may have to interpret the rules to give effect even to apparently discordant provisions by making each operate as a qualification of the other, so that both may be made to speak in unison. Taking the two sections together, I do not think that the 11th section gives to the licensed occupant such an absolute right to the land for any definite period as could be recognized as a legal bar to the sale. If under any conceivable circumstances the Governor has a discretionary power of withholding a lease, no man can assert a right to one until the discretion has been determined in his favour; and until the Governor has irrevocably fixed the duration of a lease, no man can say as matter of law that he is in the virtual position of a lessee for a definite term, and that at the particular moment at which a sale takes place he was possessed of rights paramount to that of the vender.

The clause which prohibits the sale of leased land during the continuance of the lease does not in terms apply to the case of Messrs. Moore and Griffiths, inasmuch as there is no lease in existence, and therefore it does not operate as an actual prohibition of this sale.

In ordinary cases it would and ought to be so considered by the Government that a licensed occupant to whose demand of a lease there is really no objection is entitled to have the lands in his occupation withheld from sale during the period for which it is really in contemplation as a general measure to grant leases, subject only to the express provisions of sections 6 and 9 of chapter II., and section 1 of chapter III.; but as in this case the Crown was pledged to give the applicant for purchase an opportunity to buy the land before the proclamation of the Queen's Order in Council, it would seem to be the duty of the Government to stand upon its strict legal rights in order to protect its honour.

It does not appear to admit of question that the Governor may make sale of these lands if they are required "for facilitating the settlement of the colony." But if the lease had been issued there would a difficulty arise under the word "required," there being no express provision made by means of which it can be determined what lands are so required, and it requiring a clear case to divest an interest once formally given; and both before as well as after lease a question arises upon the words "for facilitating the settlement of the colony." These words, as I understand them, are not intended to give a power to sell any particular sections to a private applicant for purchase, but must either refer to spots required as townships or to tracts of land adapted for general settlement. The whole clause has reference to public interests only, and if the words were understood so as to authorize the sale of the two sections in question independently of any other ground, the effect of the conditions granted by section 15 in favour of the lessee might be arbitrarily avoided in any case.

I think, therefore, that if the sale were proposed to be effected for facilitating the settlement of the colony these particular sections should be included in a larger reservation of land available for settlement as contra-distinguished from squatting.

If the fact be that these lands and others in the neighbourhood are so available, and the settlement would be retarded by allowing them to be put under lease, it appears to me desirable that public notification should be given of their being reserved for settlement, and that the sale of these sections should be made after and with reference to this notification.

This last remark is in reply to the inquiry submitted to the law officers as to the expediency as well as necessity of making a declaration under section 9 before the sale is effected.

I have now only further to state, that in my opinion the lands cannot be sold during the continuance of Messrs. Moore and Griffiths' occupation licence.

(Signed). J. H. PLUNKETT, Attorney-General.

It appears to me that Messrs. Moore and Griffiths are, under the circumstances here stated, entitled to a lease of the lands mentioned in the accompanying case, if they have applied, or do duly apply for the same.

It is admitted that at the time when the Order in Council came into effect they were in licensed occupation of these lands so as to entitle them to *demand* a lease of them, under the eleventh section of Chapter II. of such Order; and these being intermediate lands, under Chapter III. of such Order the duration of such lease is directed to be eight years.

No doubt there is a provision in the said last-mentioned chapter, that the Governor may, at the expiration of each successive year from the date of the lease, offer the land for sale, but still giving to the lessees a right of pre-emption.

But it is here proposed, before such lease has been granted (and after Messrs. Moore and Griffiths have, under the aforesaid Order in Council, become entitled to the same), to offer this land for public sale, and sell the same; not that it is required for any of the purposes mentioned in the third section of 5 & 6 Vict. Chapter XXXVI., or the ninth section of Chapter II. of the aforesaid Order in Council, but merely because some *private* individual has applied to purchase the same, and may be expected to give a good price for the same to answer *his own individual* purposes.

I have, &c.,

The Hon. the Colonial Secretary, (Signed) W. FOSTER,
&c. &c. &c. Solicitor-General.

SIR, Attorney-General's Office, Sydney, December 12, 1848.

WE beg leave to acknowledge the receipt of your letter of the 4th instant, stating that his Excellency the Governor having laid before the Executive Council our letter of the 8th ultimo, submitting our separate opinions with respect to the power of the Governor to offer for sale, certain portions of land comprised within a licensed run in the district of Port Phillip, you are now desired by his Excellency to inform us, that before giving any advice as to the course to be pursued in respect to the sale of the land in question the Council desire to receive our opinion on the following further question. The run of Messrs. Moore and Griffiths (in which the land is comprised) being situated in an intermediate district, the Governor would be empowered, if a lease of it had been issued, to offer any portion of the run for sale at the end of any year from the date of the lease, upon giving sixty days' notice to the lessee, and subject to the conditions in favour of the lessee which are specified in Chapter II., section 15, of the Order in Council. Can the Governor offer any portion of the run for sale, upon these same terms and conditions, whilst it remains held under a yearly licence?

In reply we have the honour to state, that we are of opinion that until a lease of this land has been issued under the first section of Chapter III. of the Rules and Regulations made by Her Majesty in Council on the 9th day of March 1847, and has either expired by lapse of time, or been determined by a notice as is therein provided, no portion of it could be legally put up for sale in the way suggested.

We have, &c.,

(Signed) J. H. PLUNKETT, Attorney-General.
W. FOSTER, Solicitor-General.

The Hon. the Colonial Secretary,
&c. &c. &c.

Enclosure 9 in No. 7. Encl. 9 in No. 7.

SIR, Superintendent's Office, Melbourne, December 31, 1847.

REFERRING to the correspondence on the subject of the dispute between Messrs. Coghill and Clarke, two licensed occupiers of Crown land in the district of the Pyrenees, and to the settlement of that dispute by arbitration in favour of Mr. Coghill, as notified in my letter of the 29th October, No. 1,154, I have the honour to forward herewith December 1847. copy of a communication which I have received from that gentleman, deprecating the sale of 10,000 acres comprised within his run, for which he understands that his opponent Mr. Clarke has now made formal application.

This application for sale I have reported in my letter of the 27th instant, No. 1,398. Your answer to the inquiry which that letter contains will enable me to return a reply to Mr. Coghill's application.

VICTORIA.

I may mention that the lands in question, though now in what is considered the unsettled districts, will be comprised within the intermediate lands, if the sanction of the Government be given to the formation of the projected new counties.

I have, &c.,

The Hon. the Colonial Secretary, (Signed) C. J. LaTrobe.
&c. &c. &c.

Sir, Melbourne, December 1847.

I beg to address your honour upon the subject of an application recently made by Mr. W. J. T. Clarke to the gentleman at the head of the survey department in this district, to survey and put up for sale certain portions of land containing altogether about 10,000 acres, being part of a station or run known as Glendarnel, at present occupied by me under the usual depasturing licence from his Excellency the Governor.

It probably is within your Honour's recollection, that I did myself the honour to address you on the 12th February last on the subject of a disputed boundary between my station of Glendarnel and an adjoining station or run called Dowling Forest, occupied by Mr. Clarke, and that further correspondence took place between your Honour and myself on that matter.

In consequence of this correspondence, the question of disputed boundary between the respective stations of Mr. Clarke and myself was referred to the arbitration of Foster Fyans and Edward Grimes, Esquires, not in their capacity of Commissioners of Crown Lands, but as private gentlemen. Messrs. Fyans and Grimes have awarded to me nearly the whole extent of country claimed by me. The award was prepared by these gentlemen themselves, and not by any professional person. I beg to enclose your Honour a copy of this award.

After this award was made known to Mr. Clarke, he made the application to the head of the survey department I have referred to above.

The land selected by Mr. Clarke or included in his application for survey and sale is (as stated to my son) scattered over the greater part of my station, and if sold or taken away from me would have the effect of completely cutting up or destroying my station, and rendering it unavoidable for occupation for pastoral purposes.

I should be sorry to impute motives of ill will or malice to any man, but your Honour may form some opinion of the motives which have influenced Mr. Clarke in making his application for survey and sale of so large a quantity in scattered portions of my run by the fact that he offered to me (through my son, and through other connexions of mine,) to withdraw his application, and to give me any security I might require not to purchase any portion of the land included in his application, if I would, as a consideration, give him up the greater part of the country awarded to me by Messrs. Fyans and Grimes.

I am advised, that inasmuch as I have occupied the station of Glendarnel under the usual depasturing licence for a period of upwards of nine years, and as no part of this station has ever been surveyed, I am entitled, under the recent Act of Parliament and Orders of the Queen in Council, as of right, to a lease of the entire station, subject to the conditions contained in such orders.

I am now busily engaged in obtaining an accurate description of my run, to enable me to make the proper application for such a lease as I may be entitled to.

My present application to your Honour is, that your Honour will be pleased to direct (or if it be the more proper course, to obtain the necessary directions from his Excellency the Governor,) that the application of Mr. Clarke for survey and putting up to sale of portions of my run be not acceded to.

I have, &c.,

His Honour the Superintendent of Port Phillip. (Signed) William Coghill.

Glendarnel, October 12, 1847.

We, the undersigned, in pursuance of the authority vested in us as arbitrators, by the within deed do hereby decree and determine, that the boundary between the stations of the within-named W. J. T. Clarke and William Coghill, known as Dowling Forest and Glendarnel, shall be as follows.—

From a point halfway between the present head stations a line is to be drawn to some trees on a hill near the Pyrenees road on the one side, and on the other to the edge of the flat at the base of Mount Blowhard, thence over the spurs of the hollow-backed hill on to the Melbourne road, and by that road on to a scrubby ridge by the road, and along that ridge, in the same direction, into the scrub, being in effect the boundary claimed by Mr. Coghill, with the exception that the point from which this line is to be drawn shall be situated half way between the respective head stations.

And we further adjudge that the expenses of the within deed of submission to arbitration, and of making the submission thereby made a rule of the Supreme Court, shall be defrayed by Mr. W. J. T. Clarke.

In conclusion, we cannot avoid remarking the extreme reluctance displayed by Mr. W. J. T. Clarke, or by those acting on his behalf, to have the matter finally adjusted

by arbitration or otherwise, at any time at which it has been proposed, and the apparent contempt evinced by them for the instructions of the Commissioner.

(Signed) EDWARD GRIMES, J.P.
FOSTER FYANS, J.P.

Enclosure 10 in No. 7.

Encl. 10 in No. 7.

Colonial Secretary's Office, Sydney,
March 22, 1848.

SIR,

I DULY received and submitted to the Governor your Honour's letter of the 31st December last, No. 1399, on the subject of the application of Mr. W. J. T. Clarke to purchase at auction a large portion of the licensed run of Mr. Wm. Coghill; and his Excellency, with the advice of the Executive Council, instructed me to make to your Honour the following communication in reply.

Mr. Coghill, as the present licensed occupant, is entitled to demand a lease of his run under the Order in Council, chapter II. section 11.

The Government will be bound to grant to Mr. Coghill, on his demand, a lease of his run, with the exception of such portions (if any) as it may be thought expedient to reserve for any of the purposes referred to in section 9 of chapter II. of the Order in Council.

If Mr. Coghill's run be not withdrawn from the class of unsettled lands by the proclamation of a new county in that locality, the Government will be precluded during the continuance of his lease from selling any portion of the run to any other person than Mr. Coghill himself, or of disposing of it in any manner, unless it be required for any of the purposes referred to in section 9 of Chapter II. of the Order in Council, or be within the distance of two miles from a railroad.

If Mr. Coghill's run be brought within the class of intermediate lands, the Governor may sell any portion of it at the end of each year, during the continuance of the lease, on giving sixty days notice; but Mr. Coghill will be entitled to exercise the pre-emptive right conferred on lessees of intermediate lands in such cases by the Order in Council.

It thus appears that Mr. Clarke's application for purchase cannot be entertained at all until it shall be decided within what class of lands Mr. Coghill's run will be placed.

In answer to the general inquiry in your Honour's letter of the 27th December last, No. 47/1398, I am directed to observe, that during the present year no lands but such as are in the settled districts, or such as it may be expedient to reserve under the 9th clause of chapter II. of the Order in Council, should be offered for sale. At the end of this year it will be open to the Government to bring forward for sale land comprised within the intermediate districts, as they may then be defined, subject to the conditions in favour of the lessees which are specified in the Order in Council.

I have, &c.

His Honour the Superintendent
of Port Phillip.

(Signed) for the Colonial Secretary,
W. ELYARD junior.

Enclosure 11 in No. 7.

Encl. 11 in No. 7.

Superintendent's Office, Melbourne,
October 3, 1849.

SIR,

VARIOUS circumstances have recently impressed upon me the expediency, were it still practicable, of securing a further extension of the "settled districts" in Port Phillip.

It is to be regretted, that at the time of the question of the extent and position of this class of lands was under the attention of Her Majesty's Government, the Privy Council was not in possession of information which might have led to some alteration in the selection then made, as under it a very large extent of land, particularly along the coast, has been included, which has not, and cannot have, under any circumstances, a claim to be included in the above class of lands; while, on the other hand, portions of the district which, under every consideration, would properly fall within such classification, are excluded.

It would appear that after the issue of leases to the occupants of "intermediate land," it will not be lawful for Her Majesty's Government to bring any portion of the lands of that description within the "settled class," before the expiration of the lease; for although lands may be withdrawn from lease, after due notice, for the purpose of sale, the power of withdrawing land from the lessee, for the purpose of merely introducing another system of temporary occupation, is evidently not conceded.

It may be impracticable or inexpedient at this date, viewing the claims and expectations of many applicants for lease of "intermediate lands," to withdraw any very large portion of the lands so occupied, and to now include them in the class of "settled lands;" but I should be glad to receive his Excellency's opinion, whether any such proposal of withdrawal, in any instance whatever, might be entertained and brought under the attention of Her Majesty's Government. If so, I would ask leave to report further

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on the subject, requesting you, in the meantime, to lay before his Excellency the enclosed copy of a report which I have received from the surveyor in charge, in reply to the inquiry, in the event of an extension of the "settled district" being practicable, what portion of the "intermediate" lands, as now determined, it might be desirable to comprise within that class of lands.

The Hon. the Colonial Secretary. (Signed) C. J. LaTrobe.

Encl. 12 in No. 7.

Enclosure 12 in No. 7.

Colonial Secretary's Office, Sidney,
September 14, 1850.

Sir,

In acknowledging the receipt of your Honour's letter of the 9th ultimo, respecting the application made by Messrs. Rogers, Lamb, and M'Gaa, to have the Kilmore estate brought within the settled districts, I do myself the honour to inform you that the gentlemen in question have been apprised that the Executive Council cannot advise his Excellency the Governor to propose any further extension of the settled district.

I have, &c.,

His Honour the Superintendent, (Signed) E. Deas Thomson.
Port Phillip.

Colonial Secretary's Office, Sydney,
July 16, 1850.

Sir,

July 9, 1850, to be returned.

In transmitting to you the accompanying letter from Messrs. Rogers, Lamb, and M'Gaa, requesting, under the circumstances therein stated, that the property belonging to them in the Port Phillip District, called Kilmore, may be brought within the settled districts, I am instructed by his Excellency the Governor to request the favour of your Honour's opinion on this application.

I have, &c.,

His Honour the Superintendent (Signed) for the Colonial Secretary,
of Port Phillip. W. Elyard junr.

Sir,

Sydney, July 9, 1850.

We have the honour to request that you will submit to his Excellency the Governor that we are the proprietors of a special survey called "Kilmore," consisting of 5,000 acres in the Port Phillip District, near Melbourne, and that by mere accident, as we conclude, on the part of the Crown, our property has been placed in a position which has deprived us of all those pasturage rights which, as a balance to the squatting privileges, have been granted to all purchasers or holders of land in fee simple by the Government. The boundaries of the settled district around Melbourne do not reach Kilmore by six or seven miles, and Kilmore is thus in an intermediate district; but we feel assured that had the Order in Council determining these boundaries been framed in this colony, rather than in England, no purchased land whatever, much less 5,000 acres purchased at 1*l.* per acre, would have been excluded from the settled district; and thus deprived of the advantages which every purchaser of 640 acres can command; in fact, Kilmore is exposed to be shut in entirely by any run or runs that might be taken around it.

We beg to represent to his Excellency that Port Fairy, a special survey of the same extent as ours, has been brought by a special Order in Council within the settled districts. The tenants and others on the Kilmore estate amount to 2,000 souls, and are daily increasing, and we would submit to the Governor the propriety and expediency of bringing Kilmore likewise within the settled districts, our tenants being much harassed by the repeated impounding of their cattle. Were this done, were Kilmore brought within the settled districts by an Order in Council, or, as we are advised, it is in the power of his Excellency to do, by the making of a large reserve we should be able to select on our pre-emptive right 32 sections or square miles of land, an advantage we respectfully submit which we cannot under any circumstances be legitimately deprived of; and we would therefore propose, in the event of his Excellency the Governor declining to entertain either of our propositions for bringing Kilmore within the settled districts, that his Excellency will be pleased to suggest to his Honour the Superintendent, the propriety of allowing us 32 sections in the settled district as a pre-emption though not conterminous.

Should his Excellency the Governor think proper, we would be prepared to memorialize the Secretary State, or take any other such steps as were taken by Mr. Atkinson, when the peculiar circumstance of Port Fairy were represented to Her Majesty's Government, the circumstances as regards Kilmore being precisely similar.

We have, &c.,

(Signed) George Rogers.
John Lamb
Allan M'Gaa.

The Honourable the Colonial Secretary.

Enclosure 13 in No. 7.

SIR, Superintendent's Office, Melbourne, July 22, 1850.

I HAVE the honour to acknowledge the receipt of your letter of the 28th June last, No. 50/390, adverting to the notice inserted in the New South Wales Gazette of that date, respecting the exercise by the licensed occupants of Crown lands beyond the settled districts of the pre-emptive right conferred on lessees of Crown lands by the 6th section of Chapter II. of Her Majesty's Order in Council of 9th March 1847.

2. I am apprised that the Crown law officers, having given an opinion that the Governor can legally allow persons, whose claims to leases under the Order in Council have been admitted, to exercise, before the issue of leases, the right of purchasing particular portions of their runs without competition, provided that such lands be not the subject of any unsettled dispute brought before the Boundary Commissioners, his Excellency, with the advice of the Executive Council, caused this notice to be issued, principally with a view of enabling persons who are desirous of raising grain for sale or barter to acquire the fee-simple of the land so to be employed, and thus obviate the numerous complaints now made, that licensees of Crown lands raise grain thereon for sale, contrary to the terms of the Order in Council above quoted.

3 Such being the concession made to the licensed claimant for a lease of Crown lands beyond the "settled" districts, under the advice of the Crown law officers, I consider it my duty to make some representation as to the anomalous position in which the public and the local Government are apparently placed in seeking to provide for public requirements and interests.

4. His Excellency will recall to mind that, under the opinion given by the law advisers of the Crown in November and December 1848, in the case of Messrs. Moore and Griffiths, it was concluded that no further measures could be taken at present to effect the sale of Crown lands in the "intermediate" district, whenever covered by a licence, and application for lease under the recent Orders in Council.

The consequence has been unfavourable to the interests of the public.

5. The Government has considered itself disabled from effecting sales in every instance where the individual, whose temporary interest might be supposed effected, thought proper to exercise the right thus conceded him of keeping land out of the market for what might be an indefinite period.

6. Not only has individual enterprise received a check, but the gradual developement of the resources of the country, in one quarter or other, has been seriously retarded, the public interests and requirements being temporarily set aside, and made subservient to what must, in truth, be considered the private interests of individuals.

7. This state of things has been productive of considerable dissatisfaction, and I think that the concession now made in favour of the squatter, enabling him to exercise a right which he could, in strict law, only expect to exercise after the issue of his lease, at the same time that the public remains strictly shut out from the exercise of the privilege of purchase of land in the "intermediate" district, which would be secured to it by the provision of the Orders in Council after that lease were issued, may form a very just subject of complaint.

8. In itself, the concession would appear reasonable enough.

There are localities marked as reserves, portions of which are urgently required for the public use, were it only for the establishment of inns and other facilities to the settlement of the country districts, which the gradual growth of the province requires, but which, under the circumstances stated, cannot be made available for sale for any indefinite period, at the same time that the obstacles which stand in the way of the issue of occupation licences disables the Government from attending to the public wants by that temporary expedient.

9. It is true that, even under the concession made by the recent notice to the interests of the squatter, the Government may retain ample powers of declining the sale of lands applied for, or of reserving from sale any portion which it may appear ought to be reserved for the public advantage, and future sale, in the ordinary way; i.e., whenever the issue of leases may have placed that measure within its power. Nevertheless, the sale of any considerable portion of land applied for, under the notice of the 28th June, adjoining a reserve, which the Governor cannot at present bring into the market, however great the public demand for it, places the public for the present quite at the mercy of the purchaser of land under the pre-emptive right.

I consider, therefore, to say the least, that in carrying out the provisions of this notice great circumspection will have to be exercised, and that the sooner the obstacles which at present stand in the way of the Government sale of land in the intermediate districts, by issue of leases or any other expedient, is removed, the better. May it not be argued, that as the settler enjoys now under his licence the same extent of privilege that he was to enjoy under his lease, that the public ought to be placed on an equally favourable footing?

(Signed) C. J. LATROBE.

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Encl. 14 in No. 7.

Enclosure 14 in No. 7.

Sept. 27, 1850.

SIR, Colonial Secretary's Office, Sydney, December 28, 1850.

REFERRING to your Honour's letter of the 31st October last, No. 220, relative to the power of the Government to offer for sale portions of runs in the intermediate districts, before the issue of the leases to the occupants thereof, I have the honour to enclose a copy of the report from the Crown law officers, from which your Honour will perceive that in their opinion the right of the Government under chapter III. of the Order in Council, to offer for sale portions of runs in the intermediate districts, before the issue of leases thereof to the present occupants, is at least too questionable to be asserted.

2. Whilst, however, communicating to your Honour this opinion, his Excellency the Governor, with the advice of the Executive Council, directs me to point out to your Honour, that although, until the issue of the leases, the Government will not be able, under chapter III. of the Order in Council, to sell to any other persons than the occupants lands forming portions of runs situated in the intermediate districts, it is open to the Government at any time to bring forward for sale the lands contained in reserves formed under section 9 of chapter II. of the Order in Council, and the rules laid down by the local Government on the subject. Whenever, therefore, any reserve shall have been made either in the intermediate or the unsettled districts, the land comprised in it, being thus withdrawn from the operation of the provisions regarding leased lands, can be brought forward for sale by auction in the usual way.

I have, &c.,

His Honour the Superintendent of Port Phillip. (Signed) E. DEAS THOMSON.

SIR, Attorney-General's Office, Sydney, Sept. 27, 1850.

WE have the honour to acknowledge the receipt of your letter of the 5th instant, No. 50/476, referring for our consideration the accompanying communication from the Superintendent of Port Phillip relative to the power of the Government to offer for sale portions of runs in the "intermediate districts" before the issue of the leases thereof to the occupants.

2. In reply we have the honour to state, that we think the right of the Government to sell portions of runs on the "intermediate districts" in the present state of things is at least too questionable to be asserted.

3. The present question is not the converse in all respects of that which was submitted to us in your letter of the 9th April last, and wherein we advised, on the 20th of that month, in favour of the power of the Government to allow purchases by parties entitled to leases of Crown lands.

4. We did not indeed, ever in that case, advise that the virtual lessees could claim a right to make such purchases, but merely that the Governor had power to make sales with the concurrence (which was necessarily implied); now the question is, as to the power of his Excellency to do an act in which he cannot expect to have the virtual lessees concurrence, namely, the putting up of portions of their runs to public competition. The one might be done by the mutual consent of all parties concerned, but it does not follow that the other can be done at the will of the Crown only.

5. But we think there is this further difference, viz., that the privilege intended by the Order in Council to be speedily conferred on the licensed occupants of Crown lands might not with propriety be withheld by reason of the delay on the part of the Government in issuing the formal leases to which the parties are entitled, and yet on the other hand the Crown and public may be strictly bound by the consequences of such delay.

6. Further, we observe that the express words of chapter III. section 1. of the Order in Council present a difficulty which we see no way of overcoming, except, of course, by the actual issue of the leases. These words authorize the Governor to offer portions of "intermediate runs" for sale only "at the end of each successive year from the date of the lease." Now, although we may consider a term with its accompanying rights, which is the meaning of the word lease in section 6. of chapter II., to be virtually subsisting at the time, we cannot point to any precise date of commencement; nor would an implied or virtual lease be within the meaning of the word as used in the above extract from chapter III.

We have, &c.,

(Signed) J. H. PLUNKETT, Attorney-General.
W. M. MANNING, Solicitor-General.

The Hon. the Colonial Secretary, &c. &c. &c.

Encl. 15 in No. 7.

Enclosure 15 in No. 7.

SIR, Colonial Secretary's Office, Sydney, July 26, 1847.

ADVERTING to the preparatory measures to be taken for giving effect to the expected Order of Her Majesty in Council, respecting the occupancy of Crown lands, I have the honour, by the desire of his Excellency the Governor, to transmit for your

information copies of a circular letter which has been addressed to the respective Commissioners of Crown lands, and of a letter to the Deputy Surveyor-General upon the subject; and I am to request that your Honour will be good enough to cause measures for the attainment of the objects proposed by these communications to be taken in respect of the district of Port Phillip.

I have, &c.,

His Honour the Superintendent of Port Phillip. (Signed) E. Deas Thomson.

Sir, Colonial Secretary's Office, Sydney, July 26, 1847.

With reference to the evidence given by you before the Executive Council, on the 15th of last month, on the subject of the preparatory measures to be taken for giving effect to the expected order of Her Majesty in Council, with respect to the occupation of Crown lands beyond the boundaries, I have the honour to inform you, that, with the advice of the Council, his Excellency the Governor is pleased to request your compliance with the following instructions, viz.:—

1. That you will propose, with the least possible delay, arrangements for the speedy completion of the surveys of the general features in the squatting districts, with a view to the settlement, by triangulation or otherwise, of points throughout those districts, which would facilitate the surveys of the boundaries of runs.

2. That you will state, in what manner, and to what extent, the survey department should in your opinion, be increased, in order to accomplish, with all practicable expedition, the above-mentioned survey of the general features, and the further more detailed survey which would be necessary for the purpose of enabling the Government to describe with precision the boundaries of runs; and,

3d. That with reference to the statement made in your evidence, that you are sufficiently informed "to lay down general lines of thoroughfare, and sites of towns in "all the country at present occupied by licensed squatters," you will be good enough to lay down on maps, and submit for the consideration of the Government, such lines of thoroughfare and sites of towns, making about each town a reserve of suitable extent for suburban and cultivation allotments.

I beg to add, that a copy of this communication has been transmitted to his Honour the Superintendent of Port Phillip, with a request that he will cause similar steps to be taken in respect to that district; and that the several Commissioners of Crown lands beyond the limits have been instructed to furnish, in reference to their respective districts, "A nominal return of all licences of runs in each district, showing the separate runs occupied by each licensee, the name by which each run is known, the approximately estimated number of acres comprised in each run, and a general description, as far as may be practicable, of the boundaries of each run;" also, "A return of all lands within each district which are not yet occupied under licence."

I have, &c.,

The Deputy Surveyor General. (Signed) E. Deas Thomson.

Enclosure 16 in No. 7.

Encl. 16 in No. 7.

Sir, Colonial Secretary's Office, Sydney, October 15, 1847.

Referring to my letter of the 4th September No. 47/452, containing directions for laying down the boundary lines of the settled and intermediate districts therein mentioned, I am now desired to inform your Honour that his Excellency the Governor, with the advice of the Executive Council, has been pleased to determine,—

1st. That it will not be necessary to lay down at once by actual survey on the ground those lines, at stated distances from certain towns and rivers, which are to divide the settled from the intermediate or unsettled districts; but that it will be sufficient for present purposes to lay them down on the charts, leaving their actual survey on the ground until the arrival of the time when they must be fixed for the purposes of defining the boundaries of the holdings on either side of them; and

2d. That the reserves to be laid out for villages and cultivation lands on the great lines of thoroughfare in the squatting districts shall consist of not less than 9, nor more than 25, square miles.

I have, &c.

His Honour the Superintendent of Port Phillip. (Signed) W. Elyard, jun.

Enclosure 17 in No. 7.

Encl. 1 in No. 7.

Colonial Secretary's Office, Sydney,

Sir, November 12, 1847.

I do myself the honour to inform you that the Governor has submitted to the Executive Council your Honour's letter of the 2d September last, No. 47/947, with the

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reports from Mr. Surveyor Hoddle therein enclosed, respecting the arrangements to be made for effecting the surveys requisite for the bringing into effect of the Order in Council of 9th March 1847, and the laying down of main lines of thoroughfare and town and cultivation reserves in the unsettled and intermediate districts of Port Phillip.

With reference to the subject of the first of Mr. Hoddle's reports, his Excellency has been pleased, with the advice of the Council, to direct the transmission to your Honour, for your guidance, of a copy of the instructions given to the Deputy Surveyor General on the 1st October last, and at the same time desires me to state that he approves of your making such arrangements on the general principle of those instructions as shall appear to you best calculated to effect the requisite surveys with as much expedition and economy as the circumstances will allow.

With reference to the subject of Mr. Hoddle's second letter, his Excellency has desired me to forward to you the copy of the instructions which have been this day issued to the Deputy Surveyor General, and to request that you will take measures similar to those therein mentioned for the laying down of lines of thoroughfare and town and cultivation reserves by the surveyors appointed to conduct the feature surveys in the unsettled and intermediate lands of your district.

I have, &c.
for the Colonial Secretary,
(Signed) W. ELYARD jun.

The Superintendent of Port Phillip.

Colonial Secretary's Office, Sydney,
October 1, 1847.

SIR,

WITH reference to what passed during your attendance on the Executive Council on the 18th ult. relative to the measures to be taken for the survey of the squatting districts with a view to the issue of leases, I am directed by his Excellency the Governor to request that you will bring forward a specific proposition with respect to each "Commissioner's district" for the conduct of the requisite surveys therein, under the following general arrangement, namely,

To each "Commissioner's district" (or to two districts combined, if in any case such an arrangement should be practicable and expedient,) there shall be assigned a properly qualified officer of the survey department, whose own surveying operations shall be limited to the general features of the country, and to the fixing of principal points in connection with the general trigonometrical survey of the colony, but whose duty it shall also be to supervise and check the work of the contract surveyors, by whom it is intended that the detailed survey of the boundaries of runs shall be carried out.

I have, &c.
(Signed) W. ELYARD jun.

The Deputy-Surveyor General.

Colonial Secretary's Office, Sydney,
November 12, 1847.

SIR,

I DO myself the honour to inform you that his Excellency the Governor has submitted to the Executive Council your letter of the 30th September last, No. 47/318, relative to the laying down of lines of thoroughfare and town and cultivation reserves in the unsettled and intermediate districts.

As it appeared from your communication that you had not the information on the subject which your evidence of the 15th June last led them to suppose that you possessed, the Council advised that one of the first and principal duties to be undertaken by the officers charged with the feature surveys should be the selection of leading lines of thoroughfare with agricultural reserves about them. By leading lines of thoroughfare the Council did not mean the roads or tracks from one station to another which are now in use, but lines so selected as that they may be confidently expected to continue main roads of the country as its settlement advances.

The reserves should be chosen on these lines in such spots as will afford the greatest advantages of situation, soil, building materials, water, and other elements of the prosperity of inland settlements, and at the same time will interfere as little as possible with the improvements of neighbouring occupants.

I have, &c.
(Signed) W. ELYARD jun.

The Deputy-Surveyor General.

Enclosure 18 in No. 7.

Encl. 18 in No. 7.

SIR, Colonial Secretary's Office, Sydney, March 7, 1850.

I DO myself the honour to transmit for your Honour's information the annexed copy of a letter addressed by me to the Surveyor-General relative to the extent of town reserves beyond the settled districts.

I have, &c.,
for the Colonial Secretary,
(Signed) W. ELYARD jun.

The Superintendent of Port Phillip.

SIR, Colonial Secretary's Office, Sydney, March 5, 1850.

YOUR letter of the 9th January last, No. 50, 6, requesting to be informed whether the area of twenty-five square miles which is fixed as the maximum extent of the reserves to be made beyond the settled districts can in some cases be increased, and representing that it is proposed to extend the reserve at Armidale to thirty-six square miles, and that the reserve at Deniliquin which has been approved by the Council embraces thirty-five square miles, having been laid by the Governor before the Executive Council, I am now directed by his Excellency to inform you that the Council cannot recommend that any reserve should exceed the area of twenty-five square miles which has been approved by the Secretary of State as the maximum.

2. As respects Deniliquin, I am to observe that the approval of the Council was limited to the town, and that they did not record my opinion respecting the adjoining reserve for cultivation; as, however, you report that the reserve laid out by you contains more than twenty-five square miles, the Council advised that it should be reduced to the regulated extent.

I have, &c.
(Signed) E. DEAS THOMSON.

The Surveyor-General.

Enclosure 19 in No. 7.

Encl. 19 in No. 7.

SIR, Mount Macedon, September 7, 1850.

I BEG leave to apply on behalf of myself and my brothers for a sale to us from the Crown of the following lands, of which we are at present the licensed occupants, situated in the parish of Lauriston, county of Dalhousie, namely, those sections marked upon the Government map

No.	48	containing	230 acres.
	49	„	329 „
	52	„	301 „
	53	„	260 „
	56	„	176 „

I would take the liberty of pointing out to your Honour two distinct grounds on which I rest my claim to such sale. As expectant lessees of waste lands of the Crown in the intermediate districts, I would respectfully submit that we are entitled to the same rights as if we were actual lessees, and that we are therefore entitled to demand the sale under section 6 of the 1st chapter of the Orders in Council.

By section VIII. of the Orders in Council the Governor is empowered to make reserves of land for certain public purposes specified in the 5th and 6th Vict. chap. 36. Now I beg to observe that notice was given in the Government Gazette that the sections above named would be sold by public auction at the upset price of 1*l.* per acre. They were withdrawn on the morning of the day appointed for the sale in consequence of an application made my myself. It cannot, therefore, be deemed an assumption on my part that the Crown was prepared to sell the lands by public auction to any purchasers for their own private purposes.

I would most respectfully contend that such a sale cannot be a disposing of Crown lands for any of the public purposes mentioned in the statute or Orders in Council; and I would take the liberty to observe, that privileges which are given to us, as lessees of the Crown, by the express words of an Order in Council, cannot be taken away except by the like express words, nor can general words be so construed as to deprive us, by implication, of rights which it was the express object of the Orders in Council to give. Therefore, sir, I contend that we are entitled under section 6. of the said Orders to a sale of the above-named lands at the price of 1*l.* per acre. As that value has been put upon these lands by the Crown, there can be no reason to suppose that a higher price should be paid for them.

The second ground on which I rest my claim is this: if the Government proposed to offer for sale the said lands, under the powers conferred by chapter III. of the Orders in

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Council, I would then claim under the section 15th, chapter I., to exercise our right to 'the option of purchasing the land for its fair value in an unimproved state," which has already been determined by the Government at 1*l.* per acre.

I have, &c.

(Signed) EDWARD WM. JEFFREYS,
for JEFFREYS Brothers.

The Superintendent of Port Phillip.

Enclosure 20 in No. 7.

Encl. 20 in No. 7.

The SUPERINTENDENT to the COLONIAL SECRETARY respecting the Claim of Messrs. Jeffreys.

September 17, 1850.

I WOULD request his Excellency's perusal of the enclosed copy of a letter addressed to me by Mr. Jeffrey, applying, on behalf of himself and brother, to purchase certain land of which they are at present the licensed occupants. I also enclose a similar application from Messrs. Booth and Argyle to purchase certain lots at the upset price; all of which lands were proclaimed for sale on the 6th instant.

1. The object of both the communications, and the cases of Messrs. Jeffreys and Booth and Argyle, are similar, and I beg leave to offer the following general remarks upon them.

2. It is true that the lands in question have been occupied by them respectively, and that they are comprised within the limits of runs, for which applications for lease were duly sent in under the Order in Council.

These lands, nevertheless, lying adjacent to the new township of Kyneton, also originally so comprised in the application for lease of Messrs. Jeffreys, have been recently surveyed and recommended for sale, and in fine duly proclaimed for sale by his Excellency in the New South Wales Government Gazette as country lots at an upset price of 1*l.* per acre.

3. At the time of sale Messrs. Jeffreys on the one hand, and Messrs. Booth and Argyle on the other, advanced claim to the pre-emptive purchase of the lots of land respectively enumerated by them at the upset price, under the plea that by the tenor of the regulations, and on the ground they have since advanced more in detail, they are entitled to such selection.

4. Under the circumstances it was judged better to withdraw the portions so claimed in both instances in order that, if there were any reasonable doubt upon the matter, it might be set aside in a proper manner.

5. In sanctioning this withdrawal, however, I intimated my strong conviction, admitting the validity of the act of sale on the part of Government under the circumstances of the case, that the said claims were groundless, and not to be conceded.

6. The validity of the act of sale must depend on the decision of the law officers.

The lands in question, as before stated, have been covered by the application for lease of the respective parties; and according to the decision of the law officer in the case of Messrs. Moore and Griffith it would not be competent for the Government to dispose of them to the public in the event of such act of disposal being contested before the issue of leases had placed the withdrawal of these lands from the occupancy of the parties, and the sale clearly within its power.

7. However, no opposition having been raised in any form to the sale of these particular lands, it may therefore be assumed that they are, to all intents and purposes, withdrawn from the occupation of the claimants, and reserved from being comprehended in any lease issued to them hereafter.

8. To lands so situated it appears to me that the applicants even now put forth no valid claim to a pre-emptive right of purchase under the provisions of an Order in Council.

Had they at an earlier date even advanced their claim, there might have been no difficulty, under his Excellency's recent notice of the 28th June 1850, to have allowed them to purchase; but even in that case certain specified conditions must have been complied with, and Government was by no means bound to concede them pre-emption at a minimum price, which, however properly fixed upon when the land was to be exposed to public competition, might not have been held a sufficient equivalent if sale were to be effected without such competition.

With these observations I submit the case to his Excellency's consideration.

(Signed) G. J. LATROBE.

Enclosure 21 in No. 7.

Colonial Secretary's Office, Sydney,
December 17, 1850.

SIR,

I HAD the honour duly to receive your Honour's letter of the 17th September last, No. 50/288, respecting the claims of Messrs. Jeffreys and Messrs. Booth and Argyle to purchase certain portions of Crown land by pre-emption at the upset price.

2. The circumstances affecting the lands in question I gather from your Honour's letter to be, that they are situated in an intermediate district, that they are included in the licensed runs of the above-named gentlemen respectively, and are covered by their demands for lease; but that, being in the immediate neighbourhood of a Government township equally included in their demands for leases, they were proclaimed for sale by public auction as country lots, before any claim to pre-emption was attempted to be asserted, but afterwards withdrawn. Messrs. Jeffreys and Messrs. Booth and Argyle now claim to exercise a pre-emptive right in respect of these lands, and to obtain them at the upset price named in the proclamation for sale.

3. For reasons assigned in your Honour's letter above quoted, and which it is not necessary here to repeat, your Honour sees cause to question the right of these gentlemen, not only to the obtaining of the lands at the upset price, but to the exercise of any pre-emptive right whatever in respect to them.

4. As a similar question was at the time under the consideration of the Crown law officers, that letter was also referred to them, and I am now enabled to transmit, for your Honour's information, a copy of their reply.

5. Without quoting at length the arguments adduced in the report of the Attorney-General and Solicitor-General, it may be sufficient to state that those officers, whilst admitting the actual power of the Government to sell the land in question to the highest bidder, are yet of opinion that such sale would not be in accordance with the "spirit of Her Majesty's Order in Council;" and as the Government can have no desire to assert extreme rights, but, on the contrary, has every disposition to act up to the spirit of the Order in Council, his Excellency conceives that the claims of the gentlemen referred to, and every other pre-emptive claim of the kind which is not over-ruled by a strong public necessity, should be conceded.

6. As it is to be inferred from the concluding portion of your Honour's letter that the lands in question are really above the minimum value, I may remark, that the Order in Council of March 1847, not less than the local regulations of 28th June last, provide in such a case for the assessment of the value of the land, and his Excellency agrees with the law officers in thinking that the claimants in this case are not entitled to the land at 1*l.* per acre, simply because it was proclaimed for sale by auction at an upset price of 1*l.*, but that the price should rather be what the Government might reasonably expect to realize by a sale with public competition.

I have, &c.

The Superintendent of Port Phillip.

(Signed) E. DEAS THOMSON.

Attorney General's Office, Sydney,
October 24, 1850.

SIR,

WE have the honour to acknowledge the receipt of your letter of the 17th instant, No. 50/871, requesting our report upon the respective applications of the Messrs. Jefferys and Messrs. Booth and Argyle, which were transmitted in the accompanying communication from his Honour the Superintendent of Port Phillip, to be allowed to purchase at the upset price Crown lands of which they are at present the licensed occupants.

In reply we have the honour to state, that the question involved in this correspondence is one of considerable difficulty and doubt. It is therefore not without hesitation that we express our opinion, which is, that although the Governor has the actual power to cause these lands to be sold to the highest bidder, yet that such sale would not be in accordance with the spirit of Her Majesty's Order in Council.

The proposed sale would not be such as is contemplated by chapter III., because it cannot be said to occur at the end of any year of the lease; because sixty days notice have not been given; and because it is not in contemplation to give the party entitled to the lease the right of pre-emption.

The justification of such a sale would therefore seem to depend upon section 9 of chapter II. The only words in that section which could possibly apply to this case are those which authorize the sale of lands comprised in any run for any other purposes of

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public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement and settlement of the colony. These general words must be construed with reference to the specific enumeration of purposes which they follow; and as all of these, with one exception resting upon peculiar grounds (that relating to the working of mines, which of course are not comprised in a pastoral lease), are of a general public character, we are strongly inclined to think these words can neither in law, nor by the ordinary rules of criticism, be held to authorize the reservation of an extensive tract of land for sale as "country lots." Indeed, it is only the words "for otherwise facilitating the improvement and settlement of the colony" that are at all capable of any other interpretation. Under these words we think it is competent to the Governor to reserve sites for townships and villages, which are absolutely essential to the settlement of the colony and to the general convenience of a surrounding district; but there does not appear to be the same public necessity for withholding adjacent country lands from lease in the intermediate districts. The power to offer for sale at the end of each year of such leases (the early issue of which is contemplated by the Order in Council) the whole or any part of the lands comprised in them is amply sufficient to enable the Governor to supply the demand for cultivation lands in the neighbourhood of such towns and villages, and is little affected by the lessee's right of pre-emption at the fair value. In the unsettled districts the case might be different, for it may concern the public materially not to have all the lands near inland towns and villages so completely locked up from purchase during a lengthened period as they would be by being comprised in the lease appropriate to those districts. It follows from what we have said that the strong inclination of our opinion is in favour of the claims to pre-emption by Messrs. Jeffery and Messrs. Booth and Argyle, but we think the claim to purchase at the upset price declared for the intended public sale clearly unfounded. They must pay "the fair value of the land in an unoccupied state," for the ascertainment of which the Government should require a valuer to be appointed according to section 3 of chapter II. The price would therefore rather be what the Government might reasonably expect to realise by a sale with public competition than the minimum price named for such a sale.

We have, &c.

(Signed) J. H. PLUNKETT, Attorney General.
W. M. MANNING, Solicitor General.

Encl. 22 in No. 7.

Enclosure 22 in No. 7.

Superintendent's Office, Melbourne,
January 20, 1851.

SIR,

I HAVE the honour to acknowledge the receipt of your letter, dated the 17th ultimo, No. 50/800, in reply to my letter of the 17th September last, No. 189, respecting the claims of Messrs. Jeffries and Messrs. Booth and Argyle to purchase certain portions of Crown lands by pre-emption at the upset price, as set forth and objected to by me in my letter to you of the 17th September last, on the ground that these particular lands were not open to pre-emption, but should be disposed of by auction.

2. Reference having been made to the law officers of the Crown in this matter, and an opinion received, of which a copy is enclosed to me, I am instructed, that insomuch as it is held that such sale would not be in accordance with the spirit of Her Majesty's Order in Council, and as the Government can have no desire to assert extreme rights, but on the contrary to act up to that spirit, the claim put forth by Messrs. Jeffries and Messrs. Booth and Argyle, and every other pre-emptive claim of the kind which is not overruled by a strong public necessity, should be conceded.

3. I must at once state, that I have been totally unprepared for this decision, and entertaining, as I do, so different an impression of the spirit and intention of the Orders in Council, and of the consequences of any such construction as that given to them in this instance by the law officers of the Crown to the welfare of the district, I am justified in hesitating to carry this decision into effect, and urging upon his Excellency the propriety of a reconsideration of the question.

4. I would at once admit, that the justification for such sale must depend upon the ninth section of the second chapter of the Orders in Council, and upon the authority given to the Governor in the clause which empowers him to make reserves for certain specific purposes, or such as public defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the improvement or settlement of the colony.

5. The law officers of the Crown do not appear to entertain an opinion that the right of the Governor under this clause to make town or village reserves (either in the intermediate or unsettled district, or indeed reserves of any character, within the limits of the authority given,) is set aside by the fact, that the lands on which such reserves are

made may have been covered by the licence of the claimant for lease at the time of the promulgation of the Orders in Council, and as a matter of course included in his application for a lease formally handed in, in accordance with the local regulations framed in consequence, in the great majority of instances within six months.

6. It is clear that a determination and notification of all such reserves throughout the widely extended and only partially surveyed district, in time to admit of formal exclusion from such application within this interval, was quite impossible. I presume that, therefore, it is allowed, that until the actual issue of leases it is in the power of the Governor to make such reserves, and that such reserves shall be held withdrawn from the provisions regarding lands covered by such leases, when issued.

7. The main point to be determined may be, therefore, in how far it may be expedient or inexpedient, on public grounds, and consonant with both the letter and spirit of the Orders in Council, to exercise the power to make such reserves, and thereby withdraw lands of greater or less extent from the provisions in favour of future lessees, whether in the unsettled or intermediate districts.

8. It is urged, in the paper before me, that, however competent it may be for the Governor to reserve sites for townships and villages, which are absolutely essential to the settlement of the colony, and to the general convenience of a surrounding district, that the word "for otherwise facilitating the improvement and settlement of the colony" would scarcely be held to justify the Governor from authorizing the reservation of an extensive tract of land as country lots; and, moreover, that there does not appear to be the same public necessity for the withholding country or agricultural lands from lease in the intermediate districts, viewing the power conferred upon the Governor with respect to the withdrawal and sale of land under lease, as in the "unsettled district," where, for obvious reasons, extended reserves may be called for.

9. With regard to the proposed limitation of the reserves in the intermediate districts to town and village reserves, I think I am justified in saying, that up to this time no such limitation has been contemplated by the Council.

A reference to past correspondence will show, that the formation of country or agricultral as well as town and village reserves throughout the country lying beyond the settled districts, whether strictly intermediate or unsettled, has been always contemplated —that frequent reference has been made to them, and rules laid down for the guidance of the superintendent and of the survey department, both in this and the middle district, in forming them.

10. I must state freely, that I have always regarded the formation of these reserves, wherever the public requirements might call for their formation, and thereby providing, as far as our partial knowledge of the superficial details of the district, and foresight, might enable us to do, for the public benefit and real interests, was an imperative duty. I have never supposed that by so doing we could be setting aside any real or just claim of the original occupant of such lands for depasturing purposes only, his occupancy having hitherto been solely authorized and considered admissible for that particular purpose.

11. Neither the letter nor the spirit of the Act of Parliament, and the Orders in Council founded upon it, seemed to me to hold out to such licensee any advantage beyond that which he might justly and fairly claim,—assured occupation for depasturing purposes solely for a certain term,—a proper degree of encouragement to aid in the settlement and more fixed occupation and improvement of the district, by the offer of a reasonable inducement to become the purchaser of the land, on favourable terms,—and compensation for improvements in the event of the improved land being brought into the market, and falling into other hands. To secure him these advantages, a departure from the established system of the sale of Crown lands within the colonies by public auction is to a limited extent sanctioned. And here I may be permitted to observe, that the experience of many years would appear to have so fully indicated the wisdom of the adoption of the system of sale by auction, that any unnecessary departure from it would be deprecated on all hands. It has generally been acknowledged to secure to the public what may in the aggregate be considered the fairest value for land sold at any time and under ordinary circumstances, at the same time that it relieves the Executive Government from the weight of responsibility, if not odium, which must be entailed by any other system less open and public in its operations.

12. I think that the public, on the one hand, have a right to evince extreme jealousy on this point, and to require that the system should not be unnecessarily set aside, and that, on the other, the Government, for its own sake, should not lightly admit of such departure.

13. To act upon the construction now put upon the spirit, if not the letter, of the Orders in Council, and upon the claims of the future lessees of Crown lands beyond the settled district of this portion of the colony, would be, in my view, neither more nor less than to relinquish and set aside that just and open system of sale by public auction in the

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case of the large majority of lands the value of which would be above the average value of such as might be occupied for depasturing purposes solely, and to substitute in its place a system of sale by private valuation which, however conducted, may be held open to certain objection, and which must be regarded as an expedient evidently only intended to be had recourse to to a limited extent and under very peculiar and difficult circumstances.

14. My view is, that it is both in the power and the duty of the Government to use timely foresight, as far as may be, under circumstances of obvious disadvantage, and in the intermediate districts, comprising as they do lands within from fifteen to twenty-five miles of most of the principal townships, as well as in the "unsettled," to remove from future occupation under lease for pastoral purposes, and from the operation of the provisions in favour of the lessees, inclusive of the right of pre-emptive purchase at a valuation, such portions of land, whether large or small, whether adapted to the formation of towns and villages only, or suitable for agricultural improvements, as the public may have a just claim to see brought into the general market to have thrown open to public competition when required, and to hold when purchased under grant from the Crown.

In no other way and by no other measures can the proper settlement and improvement of the country be with certainty facilitated and promoted.

15. His Excellency and the Executive Council may rest assured, that to adopt the alternative proposed, and to decide that in this district "reserves in the intermediate districts" are to be confined to a bare section, more or less, here or there for a township or village, all other lands, however valuable before as well as after the issue of leases, being held subject to the pre-emptive right of purchase of the original applicant for lease, and obtainable whenever disposed of by the Government at an evaluation, will be to cripple the steady occupancy and proper advancement of the colony, and to render the agricultural improvement of the country subordinate to and dependent upon the will of the lessees of Crown lands, and of those who are sure to enter into speculation with them. Money is plentiful in the Port Phillip district, and I am well assured, that if the decision recently arrived at is confirmed, that in the multitude of instances measures will be taken to secure by the exercise of the conceded pre-emptive right lands in every quarter which ought by timely reserve from the operation of the provisions in favour of such licences under the eleventh chapter of the Orders in Council to have remained in the hands of the Government, to be brought into the market, and disposed of at public auction, whenever the public requirements might call for that measure.

16. The Government may, it is true, decline to bring such lands into the market or dispose of them.

It must, therefore, risk the alternative, either of refusing to sell, although the sale of land in such or such quarter appears really called for by the public, because the public may obviously be defeated by the unexpected advance in the sale room of a claim to the pre-emptive purchase, as in the instance which has given rise to this correspondence, or it may, in the absence of any assignable ground for refusal, consent to such sale, however convinced that the public requirements are not directly promoted thereby.

17. Before I conclude these remarks I would refer to your letter of the 28th of December, 50/823, received since that which I have now the honour of acknowledging came to hand.

I am in that letter instructed that, under the opinion of the Crown law officers, the right of the Governor under chapter III. of the Orders in Council, to offer for sale portions of runs in the intermediate districts, before the issue of the lease thereof to the present occupant, is at least too questionable to be asserted; but I am advised that, although this is the case, it is open to the Government, at any time, to bring forward for sale the land contained in reserves formed under section 9 of chapter II. of the Order in Council, and the rules laid down by the local Government on the subject. Whenever, therefore, any reserve shall have been made, either in the intermediate or unsettled districts, the land comprised within it being thus withdrawn from the operation of the provisions regarding leased lands, can be brought forward for sale by auction in the usual way.

I cannot reconcile this instruction with the opinion and decision in your letter of the 17th December last, 50/800, and its enclosure; and I would gladly think that I am under some misconception in relation to these matters, which further consideration and explanation may remove, and that I may be relieved from the difficulty in which I find myself placed.

I would earnestly request his Excellency to allow the statement I have felt it my duty to make to receive such consideration as it may appear entitled to.

I have, &c.

The Hon. the Colonial Secretary, Sydney.

(Signed) C. J. LaTrobe.

Enclosure 23 in No. 7.

Encl. 23 in No. 7.

Colonial Secretary's Office, Sydney,
March 10, 1851.

SIR,

IN reply to your Honour's further letter, No. 51/16, of the 20th January last, on the subject of the right of pre-emptive purchase claimed by Messrs. Jeffreys and Booth and Argyle, over land now in their occupation in the intermediate districts of Port Phillip, I do myself the honour, by direction of his Excellency, to transmit to you the annexed copy of the opinion of the Crown law officers, recommending that the matter be postponed for the determination of the Governor and Executive Council of Victoria.

I have, &c.
For the Colonial Secretary,
(Signed) W. ELYARD jun.

His Honour the Superintendent
of Port Phillip.

Attorney-General's Office, Sydney,
March 1, 1851.

SIR,

WE have the honour to acknowledge the receipt of your letter of the 7th ultimo, 51/98, referring to ours of the 24th October last, on the subject of the application of Messrs. Jeffreys and Messrs. Booth and Argyle, to purchase at the upset price certain portions of Crown lands at Port Phillip, and enclosing a further letter from the Superintendent of Port Phillip, soliciting a reconsideration of the decision arrived at in the case.

In reply, we have the honour to state that the further letter of the Superintendent of Port Phillip has added to the doubts which we expressed in our former communication on this subject; but we are more particularly struck with this consideration, that his Honour's local knowledge appears to have produced in his mind an opinion to the effect that the claims of Messrs. Jeffrey's, &c. are in fact "over-ruled by a strong public necessity."

3. Under these circumstances we would suggest, that as the district of Port Phillip is about to be completely separated from this territory, and withdrawn from the jurisdiction of New South Wales, it will be proper that his Excellency and the Executive Council should abstain from coming to any final decision upon the point, and should leave it to be disposed of by the future government of Victoria, in such manner as local circumstances and considerations, or the peculiar views of that Government, may require.

4. It may be desirable that in the meantime the leases of these claimants, and of others whose licensed occupation extends over lands which the Superintendent of Port Phillip may think it advisable to exclude from their leases, should be withheld. But probably none of the Port Phillip leases will in fact be issued before the separation of the colonies.

5. It would perhaps not be proper for us to accompany the above suggestions with any further general observations upon the construction of the Order in Council; but we may remark that, in preparing the drafts of the leases, we have inserted an express reservation of power to sell, not only towns and villages, but also adjacent cultivation allotments, which we did because we thought the power of great importance to the public welfare, but not so clearly within the words of the 9th section of chapter II. as was to be desired.

We have, &c.
(Signed) *

The Hon. the Colonial Secretary.

* So in copy.

Enclosure 24 in No. 7.

Encl. 24 in No. 7.

Crown Solicitor's Office, Melbourne,
January 12, 1852.

SIR,

IN reply to your letter of the 1st day of October 1851, enclosing certain documents for the perusal and opinion of the law officers of the Crown, with his Excellency the Lieutenant-Governor's minute thereon,—

I have the honour to transmit the opinion asked for.

I have, &c.
(Signed) HENRY F. GURNER,
Crown Solicitor.

The Hon. the Colonial Secretary.

WE have perused the correspondence submitted to us by his Excellency. As the subject is one of no small difficulty, affecting a variety of private rights and involving matters of extreme importance to the public interests, we deem it necessary to premise some general observations.

The Orders in Council have the same effect as the statute on which they are founded.

The general words, "or for any other purpose of public defence, safety, utility, convenience, and enjoyment," occurring in the 9th section of the second chapter, must, according to the ordinary rules of construction, be interpreted with reference to the preceding particular instances.

Lands, the subjects of those instances, are all to be appropriated to public purposes, in the enjoyment of which every person may participate. They are converted by the "grant,

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sale, or other disposal" mentioned in that section, as it were, into public property, and dedicated to the use of the inhabitants generally.

So far the provisions of this section resemble those of the statute relating to the sale of Crown lands, but other and more comprehensive terms have been inserted to meet, as it would appear, the progressive expansion of the colony. The former provisions relate to objects of a public nature ; the latter terms, obviously introduced with a view of providing for a class of wants of no less public concern, and which circumstances may render more or less extensive, contain a power of a different nature, unconnected with and to be construed independently of those provisions.

We may reasonably suppose that the framers of these Orders anticipated the inconvenience to the public likely to arise from so large a portion of the country as the unsettled districts being locked up from sale for many years, and that demands would be made for lands to be applied to purposes different from those merely pastoral.

To obviate this inconvenience, and meet these demands, it appears to us that the Governor has been authorized to dispose of such portions as may be required " for the settlement and improvement of the colony." The general wants of the community may call for the establishment of inland towns and villages, and the necessities of their inhabitants may absolutely require that the agricultural land immediately adjacent should be sold. We consider that the Governor, when satisfied of an absolute necessity, would be justified in selling, or reserving for immediate sale, such portions of the lands in the intermediate or unsettled districts as may be required for the formation and support of those towns or villages. But we are of opinion that it would not be in accordance with the correct interpretation of this section, nor within the spirit of the Orders in Council, were the Governor, without reference to the sites of towns or villages, or present and pressing public requirements, to reserve for sale portions of lands in these districts with a view of meeting the prospective wants of the community. Power to make such reserves would, as it appears to us, in effect place merely at discretion the right of the occupant to a lease for a certain number of years, so clearly recognized by the Orders in Council, and thereby frustrate the principal object for which those Orders were framed.

We are clearly of opinion that the lands to which we have alluded are not subject to the pre-emptive right of the occupant, nor should they be included in a lease ; but until an actual sale the possession of such occupant should not, as we conceive, be disturbed. He is entitled to a lease, subject to the conditions contained in this 9th section, and until the enforcement of those conditions render an interference necessary, he should be permitted to exercise any former rights he may have enjoyed.

(Signed) William F. Stawell,
Attorney-General.
Redmond Barry,
Solicitor-General

12th January 1852.

Enclosure 25 in No. 7.

Opinion.

We have considered the subject of Her Majesty's Orders in Council, 9th March 1847, submitted to us by order of his Excellency, with reference to—

1. The mode in which lands should be described in leases to be issued under these orders :
2. The power of the Governor, after the date or issue of a lease, to reserve and dispose of any land comprised in such lease for the purposes mentioned in sec. 9. c. 2 :
3. The right of the lessee to claim the option of purchasing any such land at its fair value in an unimproved state previous to its being disposed of.

1. We can foresee the probability of much inconvenience arising to the lessee if the lands are described generally, as lands known by a particular name, and in the actual occupation of a particular person. The lessee might experience great difficulty in proving the precise limits were he compelled to remove a trespasser. But we are of opinion that such a description, if the land can be thereby identified, is sufficiently legal. The rights of the Crown might be protected, and any difficulties of determining in what lease particular lands were contained might be obviated, by inserting in the lease a proviso as to the mode by which, as between the Crown and the lessee, such limits should be ascertained.

2. We are of opinion that lands comprised in a lease may, after the date or issue of such lease, be disposed of by the Governor for any of the purposes mentioned in sec. 9. cap. 2. The position or extent of lands required for some of those purposes, railroads, for instance, could not be anticipated, or the necessary reserves made, previous to the issue of the leases. The power contained in this section was conferred on the Governor, to enable him during the currency of the lease to dispose of any lands required for such purposes.

3. We think that such lands are not subject to the pre-emptive right of the occupant. To admit such a right would defeat the obvious object of the section.

(Signed) William F. Stawell, Attorney-General.
James Croke, Solicitor-General.

18th August 1852.

Enclosure 26 in No. 7.

To his Excellency CHARLES JOSEPH LATROBE Esquire, Lieutenant-Governor of the Colony of Victoria and its Dependencies, &c. &c.

MEMORIAL of the undersigned licensed occupiers of Crown lands in the colony of Victoria,

Showeth,—

1. That the tenure by which your memorialists hold the right of depasturage of the waste lands of the Crown does not possess the same fixity of character which belongs to other species of property, in consequence of which doubt and incertitude are introduced, and improvements are arrested.

2. That the Act of Parliament 9 & 10 Vict. c. 104., which authorizes Her Majesty to demise the waste lands of the Crown for any term not exceeding fourteen years, and also the Orders in Council founded thereon, bearing date the 9th day of March 1847, have not yet been acted upon.

3. That your memorialists cannot avoid the apprehension that the difficulties (of whatsoever nature they may be) which have delayed the execution of these Orders may be of a permanent character, so as virtually to defeat the benefits intended to be conveyed to your memorialists by the Imperial Parliament and by Her Majesty in Council.

4. That, as it is of the utmost importance to the pastoral interests that substantial effect should be given to the above Act of Parliament and Orders in Council, your memorialists respectfully submit, that leases should be issued in which the reputed boundaries of each respective run should constitute the description of property intended to be demised, reserving, however, the right and claims of adjacent settlers inter se, which should not be compromised by any such descriptions contained in any such leases, but be determinable by law in the regular courts of the colony.

5. That as it is impracticable to ascertain with any certainty the capacity of particular stations to carry any specified amounts of stock, and as every method of computation must be liable to various sources of error which might hereafter impeach the accuracy of those concerned, and lead to many discrepancies, your memorialists suggest that the rent to be reserved should not in any case be a fixed rent, but be determinable for each ensuing year in manner following, viz.—Every settler should be obliged to render half-yearly returns of stock to the treasury, and the average of such half-yearly returns should constitute the basis on which to compute the rent for the year ensuing.

6. That, believing the immediate issue of leases to be both practicable and beneficial, your memorialists respectfully urge on your Excellency that measures may be taken to carry the same into effect.

And your memorialists, &c. &c.

(Signed) J. F. PALMER, Bonigalla, and 85 other signatures of individuals and firms.

Enclosure 27 in No. 7.

To his Excellency CHARLES JOSEPH LATROBE Esquire, Lieut.-Governor.

THE Memorial of the undersigned licensed occupants of Crown lands in the unsettled district of Murray,

Respectfully showeth,—

1st. That the Orders in Council under which your memorialists now hold their licensed runs came into force and have had the effect of law since the 7th October 1847.

2d. That by the 3d section, chapter I., of the said Orders in Council, the local Government had the power, at any time previous to the 31st December 1848, to proclaim and fix the boundaries of any county or counties, and that such county or counties should come under the regulations applicable to land situated in the intermediate districts.

3d. That in accordance with the power so vested in the local Government certain "counties" were proclaimed and their "boundaries" defined. The remainder of the waste lands of the Crown (save the settled districts) consequently came under the rules and regulations applicable to the unsettled districts.

4th. That by the 11th section, chapter II., of the said Orders in Council, your memorialists were entitled to demand leases for fourteen years of their respective licensed runs.

5th. That your memorialists have, in accordance with the Government notice bearing date 7th October 1847, demanded leases of their respective licensed runs accordingly.

6th. That your memorialists have patiently waited since that time, the issuing of their leases, in accordance with the said Orders in Council, but the Government have from time to time delayed issuing the same, notwithstanding the pledge of his Excellency the Governor, as contained in the concluding paragraph of the Government notice of the 7th October 1847, which runs thus:—"His Excellency, however, desires at the same time to intimate that all practicable despatch will be used for the purpose of putting occupants of Crown lands in possession of the leases to which they may be entitled under Her Majesty's regulations."

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7th. That your memorialists have learned from a letter addressed by the Colonial Secretary to Mr. William Forlonge of Euroa, that your Excellency assumes to the Lieut.-Governor the right of offering for sale any portion of a squatter's run in the unsettled district which your Excellency may consider fit for agricultural or other purposes.

8th. That your memorialists earnestly yet respectfully protest against such an assumption of power on the part of the Lieut.-Governor, as being an infringement of rights conceded to the squatter by the Orders in Council, and a direct violation of the pledge of our most Gracious Queen, conveyed as that pledge is to the licensed occupants of Crown lands in the unsettled districts by Her Majesty's Secretary of State for the Colonies.

9th. That if any doubt as to the true intent and meaning of the Orders in Council (in so far as the unsettled districts are concerned) could exist, it is most unequivocally set at rest by the following extract from a Despatch from Her Majesty's Secretary of State to the Governor of New South Wales, when calling his Excellency's attention to the power given to the local Government by section 3, chapter I., of the said Orders:—"Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years; it would therefore be absolutely necessary that no lands should be so classed, except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the time for which the lease will be granted. I have to instruct you to be most particular on this point."

10th. That your memorialists would respectfully impress on your Excellency the justice, policy, and expediency of at once causing the leases to issue in the unsettled districts, in conformity with the pledge of Her Majesty's Secretary of State to the licensed occupant of lands in those districts.

11th. That your memorialists would further state, they are willing to receive their leases as binding on the Crown only, leaving the lessee to establish his claim to his run against any other intruder in the law courts of the colony. At the same time, if it is practicable to establish any competent tribunal to which to refer any disputed boundaries, your memorialists would give their most favourable attention to any suggestions on this point which might emanate from your Excellency.

And your memorialists, as in duty bound, will ever pray,

(Signed) W. Forlonge, and 18 others.

Encl. 28 in No. 7.

Enclosure 28 in No. 7.

Minute of Arguments addressed to his Excellency the Lieutenant-Governor on the following points, at an audience afforded to a number of squatters on the 3d of August 1852.

I. That the leases of runs should date from the time of their issue.

II. Or, if that should not be conceded, that they may bear even date with leases issued by the New South Wales Government.

III. Or, that at least the question should be referred to the Governor-General before any steps are taken in the matter, that the rights of this class of the community may receive the fullest consideration.

IV. That it is an infraction of the Orders in Council to make agricultural reserves, particularly in the unsettled districts.

I. That the leases of runs should date from the time of their issue.

Although it should be legally untrue that the squatter has possessed a lease since the proclamation of the Orders in Council, it is contended that he has virtually enjoyed every benefit intended to be conferred by that instrument, and that equitably the leases should bear even date with the proclamation of the Orders in Council, or, at least, from the 31st of December 1848, which defined the period within which the distribution of districts was to be made.

But in order to arrive at a just opinion on this subject, it is necessary to consider what effects have followed from the delay in the issue of leases, a delay in no respect attributable to any laches on the part of the squatter. These effects are of two kinds, directly diverse from each other.

1. By reference to Lord Grey's Despatch dated 29th November 1846, it will be seen that the special object contemplated by the new Orders in Council was to present inducements to the settler to make permanent improvements on his run, so as to accommodate a larger amount of stock; but it is notorious that few persons have engaged in such enterprises, from the uncertainty of their position, and the doubts which they have justly entertained as to the issue of leases, and consequently they cannot be said to have enjoyed all the privileges intended to have been conferred upon them; neither have they been able to dispose of their stock and stations to the same advantage in the public market of the colony as they would have done had the faith of the Government been fulfilled.

2. On the other hand, there are persons who have placed a more unlimited faith in the pledges of the Government, and have made improvements on their runs, or purchased new runs, on the expectation of a definite and guaranteed enjoyment for a number of years. Such cases present examples of vested interests created on the faith of the Crown, and ought not to be disturbed on any consideration of mere expediency, without an equivalent compensation.

The title to land in fee under the pre-emptive right, and the title to leases, rests on the same authority; from whence it follows that the latter may not be disturbed or overborne from considerations of public conveniency, without the admission of an equal power to interfere with the titles given by the Crown to the former.

II. Or, if that should not be conceded, that they bear even date with leases issued by the New South Wales Government.

The Orders in Council apply equally to the two colonies, and it seems only reasonable that the older and superior Government, under which the Orders themselves were issued, should take the lead in this question. There would be an obvious inconsistency, and it would afford, moreover, a fruitful source of disputation hereafter, if different dates were adopted in the two colonies, as it would be impossible, in such a contingency, to deny either that one had been unjustly favoured, or the other unjustly treated. The circumstances of the two colonies, although they should be much more different than they are, cannot be allowed to modify an abstract right.

III. Or, that at least the question should be referred to the Governor-General before any steps are taken in the matter, that the rights of this class of the community may receive the fullest consideration.

The blame, if blame there be, of the delay in the issue of leases, rests with the superior Government, on which account it seems proper that that Government should first be consulted, that the squatter may receive such just consideration as the circumstances of the case may seem to demand, and that he may, after having exhausted all other resources, pursue his claim before the Queen in Council.

IV.—That it is an infraction of the Orders in Council to make agricultural reserves particularly in the unsettled districts.

This proposition may be considered under two aspects.

1. As to the legality of making such reserves.
2. As to the policy of doing so.

I. The legality of making agricultural reserves involves also two questions.

1. As to the legality of so doing before the issue of leases.
2. As to the legality after the issue of leases.

1. Before the issue of leases.

The Act of 9 & 10 Vict. c. 104. came into operation in this colony on May 1, 1847. Section 10 of this Act restricts Her Majesty from delegating any power to Governors of Colonies to alter the rules and regulations repecting the occupation of waste lands of the Crown, referred to in section 6.

The Orders in Council made in pursuance of section 6 of the above Act came into operation in this colony on October 7, 1847.

Chapter I. section 3 of these Orders limits the time within which any other county or counties may be fixed and proclaimed to December 31, 1848.

It is observable that nothing whatever is said respecting agricultural reserves; and it is further observable, and it is a remarkable circumstance, that the power proposed to be conferred on the Legislative Council in the first draft of these Orders, to alter these divisions, was in the second draft revoked (chapter I. section 3, Draft Orders). Thus evincing a great anxiety to render irrevocable the pledge when once given, and to render any future interference with it impossible. The same authority also expressly prohibits the Governor's interference in the alteration of the boundaries after they are once fixed.

Lord Grey's Despatches afford a full and complete interpretation of the intention of the framers of these Orders. In his first Despatch, dated the 29th November 1846, accompanying the Draft Rules, when it was proposed to impose on the Governor the task of classifying the lands of the colony, he writes,—"There is, as you will observe, a very material difference between the conditions on which it is proposed that land should be held in the three different classes of districts which it is intended to establish, and the nature of this difference is such as would make it necessary that you should act with "extreme caution" in classing the lands of the colony in one or the other of these districts. Land in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of 14 years. It would therefore be absolutely necessary that no lands should be so classed except those which, from the remoteness of their situation, you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the term for which the leases will be granted."

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And that this was the view of the Secretary of State for the Colonies appears beyond doubt from the concluding paragraph of the same Despatch, which evidently regards the settled and intermediate districts as the only ones available for public sale.

"I have to instruct you to be most careful on this point, since it would be a source of very serious injury, both to the colony and to the mother country, if at the end of eight or ten years it should be found that the progress of emigration were checked by the inability of the Crown to find lands to sell to intending emigrants. You will recollect also that, as the proposed regulations with regard to intermediate lands will secure to the actual holder a right of occupation for eight years, unless they are previously required for purchase, and will also assure to him, on giving up possession, a right to the value of his improvements, there would be the less occasion for placing in the class of unsettled districts any lands as to which even a doubt can be entertained."

The same Minister, in his Despatch dated the 30th March 1847, accompanying the amended rules, after, therefore, mature reflection, and after an interval of four months, writes,—"I have in my former Despatch explained to you the great importance which I attach to avoiding an error of this kind, with a view to the interests of future settlers, and how great my anxiety, that no undue extension should be given to the lands to be defined as unsettled, and which would thus be put out of the power of the Crown, and rendered unavailable to the public by purchase, for the long period of 14 years."

This receives further confirmation from a subsequent paragraph, which relies on the sufficiency of the intermediate lands to meet the public exigencies during the continuance of the leases,—"You will perceive that the intermediate lands have been so described as to provide for the probable course of settlement along the banks of navigable rivers, and also for the improvements which may hereafter arise, of any railways constructed in the colonies,"—where, in the concluding words, especial reference is made to Chapter I., section 10 of the rules and regulations.

The "extreme caution" enjoined by the Colonial Minister on Sir Charles FitzRoy evinces, as strongly as it is in the power of language to do, the inviolability attached to the public faith when once pledged. From the foregoing observations may also be deduced the following conclusions:—

1. That the Queen, as contradistinguished from the Queen in Council, possesses no power to alter the distribution of districts when once fixed and proclaimed, or to delegate such power to others; and that such power (although conferred in the first draft) has been deliberately withheld from the Legislative Council of the colony.

2. That the power of the Governor to class the intermediate and unsettled lands extended only to counties, and that such counties could not be proclaimed after the 31st December 1848.

3. That not one word is said, nor may anything be inferred from incidental expressions, of village or agricultural reserves; but, on the contrary, every supposable exigency is presumed to be provided for by the settled and intermediate lands, and, after the issue of leases, by the 9th and 10th sections of the rules and regulations.

4. That this restriction of power to make village and agricultural reserves applies equally to the intermediate and unsettled districts, but in a particular manner to the latter, for as it is competent, at the end of any given year, to put up the whole or part of any run comprised in the intermediate districts, no injury is virtually inflicted by proclaiming such reserves by anticipation, except such as arises from the withdrawal of the best lands from the pre-emptive right.

5. That on the supposition of this power being exercised, it is clearly limited to the time antecedent to the issue of leases, so that the leases must bear date, even on this unfavourable hypothesis, subsequent to the proclamation of such reserves.

2. After the issue of leases.

It is evident that every argument drawn from the tenor of Lord Grey's Despatch, in connexion with the Orders in Council, have a more cogent application in reference to the power now claimed to make agricultural reserves after the issue of leases. Such a power, claimed, as it is understood to be, under the 9th section of the 2d chapter of the Orders in Council, would invalidate his Lordship's reasoning altogether, and condemn the extreme solicitude evinced by that Minister in his Despatches on the subject, as absolutely superfluous. Neither does a consideration of the Orders in Council themselves, apart from these Despatches, lead to a different conclusion. The 9th section reserves to the Governor the right to grant and sell any lands during the currency of the leases for "public," as contradistinguished from private purposes, such private purposes being by possibility only such as may be comprised in the possession of the fee simple directed to private objects.

On the other hand, what is meant by public purposes may be collected from the specialties enumerated in the 9th section, which are all for the general advantage, and also by reference to the 3d clause of the 5th and 6th Vict. c. 36., quoted in chapter II. sec. 8 of the Orders in Council, as declaratory of the objects contemplated in that and the following clauses, viz.—

"For public roads and other internal communications, whether by land or water, or for the use and benefit of the aboriginal inhabitants of the country, or for the purposes

of military defence, or as the sites of places of public worship, schools, and other public buildings, or as places for the interment of the dead, or places for the recreation and amusement of the inhabitants of any town or village, or as the sites of public quays or landing places on the sea coast or shores of navigable streams, or for any other purpose of public safety, convenience, health, or enjoyment.

Such an enumeration of specialties as is contained in the 9th section of the Orders in Council, and such a provision for railroads as is the express and special object of the 10th section, would be absolutely superfluous, if a general power to make agricultural and other reserves previously and independently existed; nor does it appear possible, under the largest interpretation, for the Crown to set aside the express words of the 6th section, which states that—"During the continuance of any lease of lands occupied as a run, the same shall not be open to purchase by any other person or persons except the lessee thereof;" for if the Crown may come in upon the lessee's estate for any and every purpose, the guarantee of the 6th section is rendered absolutely nugatory.

The same point is asserted in the Order of Council dated 18th July 1849, viz. (New South Wales Gazette, 1850, vol. i. p. 686),—

"Provided always, that no such condition or clauses of forfeiture, exception, or reservation shall entitle any person, other than the holder of such lease, to use the lands comprised therein for the purpose of pasture or cultivation."

And indirectly by the 15th section of the Orders in Council, viz., that,—

"Upon the expiration of a lease it shall be competent for the Governor to put up all or any part of the lands included in a run for sale."

From which it may clearly be inferred that until such expiration comes about no such power is conferred.

II. As to the policy of making agricultural reserves, &c.

The impolicy of an undue dispersion of the inhabitants is so strongly and fully argued by Earl Grey in his Despatch already referred to, dated the 29th November 1846, that it is unnecessary to enlarge further on this subject, except to remark, that the rapid augmentation of the population of this colony, taken in connexion with the probable advance in price of animal food, would seem to render it eminently unwise to place any unnecessary drawback upon the pastoral interests. Already the dearth of labour is restricting the operations of this class of capitalists, while the effect of opening agricultural reserves in the "unsettled" districts would obviously and unavoidably be to convert a large portion of these lands into a right of commonage, from whence would spring innumerable trespasses on the legitimate settler, with all the concomitant evils of cattle-stealing and heart-burnings, and an amount of obstruction to the due pursuit of pastoral objects as would seriously impede and fetter these operations, and thereby prove detrimental to the public interests.

The settler has no desire to impede the progress of the colony, nor ought he so to be charged, if in a legitimate manner he pursues his just claims. The inviolability of public faith is peculiarly a British sentiment, and constitutes the broadest and safest basis of national prosperity.

(Signed) J. F. Palmer.

Enclosure 29 in No. 7.

Euroa, July 13, 1852.

Sir,

I have the honour to draw your Excellency's attention to a letter received by me from the Colonial Secretary, bearing date the 5th ultimo, wherein your Excellency assumes to the Lieutenant-Governor the power to offer for sale any portion of a squatter's licensed run (in the unsettled districts) which your Excellency may consider fit for agricultural or other purposes. I would at the same time allude to the conversation which (in conjunction with Dr. Murphy) I had the honour to hold with your Excellency on the 3d instant, relative to the construction your Excellency places on the 9th section, chapter II., of the Orders in Council, which construction forms the basis of the Colonial Secretary's letter to myself. In the observations I am about to make I shall limit myself to what I consider to be the rights of the squatters in the unsettled districts under the Orders in Council.

In conformity with the Governor's proclamation dated 7th October 1847, the Orders in Council, under which I now hold my licensed runs, came into force, and have since had the effect of law. Previous to the 31st December 1848 the local Government had the power, by section 3, chapter I., of said Orders in Council, to proclaim and fix the boundaries of any county or counties, and that such county or counties should come under the rules and regulations applicable to lands in the intermediate district.

In accordance with this power, certain counties were proclaimed, and the boundaries thereof defined, previous to the 31st December 1848. The remainder of the waste lands of the Crown (now the settled districts) came under the rules and regulations applicable to lands in the unsettled districts. The rules and regulations which in the Orders in

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Council apply to the unsettled districts are in my opinion sufficiently explicit of themselves, but, were they at all ambiguous, the true intent and meaning thereof is most satisfactorily defined by a Despatch from the Secretary of State for the Colonies to the Governor of New South Wales, when calling his Excellency's attention to the power conferred on the local Government by section 3, chapter I., of the Orders. I quote the portion of the Despatch which defines the rights of the squatters in the unsettled districts.

"Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years; it would therefore be absolutely necessary that no lands should be so classed, except those which from the remoteness of their situation you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the term for which the lease will be granted. I have to instruct you to be most particular on this point."

No language can more forcibly support my views of the meaning of the Orders in Council, as applicable to the unsettled districts; and your Excellency will perceive that the control of the Crown lands in the unsettled districts is thus placed wholly beyond the interference of the local Government. It was on the faith that the Orders in Council should be carried out in all integrity, and that the pledge of Her Majesty's Secretary of State should be respected, that I was induced to embark my whole means in squatting pursuits in the unsettled districts.

If your Excellency's assumption be correct, that the Lieutenant-Governor has the power to violate a pledge thus distinctly and unequivocally expressed (by withholding my lease or selling my licensed run), then your Excellency assumes a power to ruin me or any other squatter in the unsettled districts. Had the whole of the lands in Victoria been proclaimed as within counties previous to the 31st December 1848, then the local Government would have had a power of resumption at the end of every year (subject to lessee's right of pre-emption), by the rules applicable to the intermediate districts; but having waived that right by proclaiming certain counties, thus leaving the remainder of the Crown lands (always excepting the settled districts) under the rules applicable to lands in the unsettled districts, by those rules must they be guided.

In conclusion, I would respectfully urge upon your Excellency the justice of allowing my leases to issue, subject to such conditions as are applicable to lands in the unsettled districts, as defined by Her Majesty's Secretary of State for these Colonies.

I would here state to your Excellency, that I am sure no opposition would be offered by the squatters to modified reserves in the main thoroughfares of the colony. At the same time, allow me to impress on your Excellency, that the squatters are determined, by every constitutional means within their reach, to oppose the principle that the local Government have the power to deal with these licensed runs otherwise than through the Orders in Council, as defined by Her Majesty's Secretary of State for the Colonies.

I have, &c.,

His Excellency the Lieut.-Governor, &c. &c. &c.

(Signed) W. FURLONGE.

Encl. 30 in No. 7.

Enclosure 30 in No. 7.

Some Observations upon the Occupation of the Waste Lands of the Crown in the unsettled Districts, having reference to the Right of the Government, and the Rights of the Squatters as affected thereby.

1. The Government of Victoria maintain the right, as per the letter of the Colonial Secretary to Mr. Furlonge of date the June 1852, to reserve and sell for any purpose any portion of land comprised within the run of a proprietor in the unsettled districts, under, as it is averred, the Act of 9 & 10 Vict. c. 114., and the orders and regulations consequent thereon. This right is based more especially upon sections 1 and 9 in chapter II. of the Orders. Now, these Orders, having the force and effect of law, must be carried out and acted upon by the rules of law, and I hold that by these rules the Government cannot act partially under these Orders; that they cannot carry out only those portions which they think fit or deem expedient, and leave the rest in abeyance; that the whole Orders must be in operation, or none; that there is no dispensing power allowed,—no option given to the Government in the matter. The last three lines of the preamble before chapter I. of the Orders run thus: "The rules and regulations comprised in the following chapters shall henceforth be observed, and have the force and effect of law." Leases, however, not having been issued, in accordance with the Orders, the rules and regulations have not been observed, but, as before said, in part. This partial proceeding is, besides, unfair and unjust as between the Crown and the subject.

2. I maintain again, that the special reserves alluded to in the Orders were to be provided for only by saving clauses in the leases. This appears quite evident from section 1 of chapter II., where the Governor's right is secured to enter upon any of the lands comprised in the said leases for any purpose of public defence, &c. &c., and from section 9 of same chapter, where the Governor is not to be prevented from making grants or sales

of lands within the limits of the run, or land comprised in such lease," &c. &c., as the local Government have no other authority for making reserves than what is conferred by these Orders, it follows that any lands alienated or reserved in the unsettled districts prior to the issuing of leases have been so dealt with contrary to law.

3. That the reservation of large tracts of land was never contemplated by the Imperial Government is, I think, rendered clear by section 2 of chapter II. of the Orders, which says, "each run shall be capable of carrying at least 4,000 sheep, or an equivalent number of cattle," &c. &c, "and not in any case to be let at a lower rent than 10*l.* per annum." Now, if reserves were to be made prior to the issuing of leases it would happen that many runs would be blotted out altogether, by the extent of the reserves bringing them below the limitation;—a confiscation of property of course the result, and the right of proprietors who under section 11 were entitled to demand leases of their respective runs would be virtually annihilated.

4. It appears to me very clearly that the purposes for which reservations in the leases may be made are public purposes, and no other, and that each particular word in sections 1 and 9, specifying the purpose, &c., should be read as if the word "public" were in each case printed before it. This is evidently the true intent and meaning of the law, as it obviously was of the framers of the law. If, however, there be any ambiguity in the meaning to be attached to the wording of any of the Orders, that must be cleared up by the usual rule in legal courts, that laws are interpreted in doubtful cases by a knowledge of the intention of the Legislature which made the law; and in the present case we have fortunately a Despatch of the Secretary of State, of date November 29, 1846, declaratory of the intention of the Privy Council when framing the Orders in Council. That Despatch thus declares the intention:—"Lands in the unsettled districts would by these Orders thus be absolutely put out of the power of the Crown for the long period of fourteen years." No stronger language could be used to explain the intention of the framers of the Orders in Council.

5. By section 3 of chapter I. of Orders power was given to local Governments to proclaim the limits of districts up to 31st December 1848, and as such proclamation did in effect acknowledge and allow the rules to be enforced within the several districts, the Government cannot now make the rules applicable only to intermediate districts of effect in unsettled districts, as they propose to do, by selling lands in the latter to others than the occupiers. The power to sell at all in the unsettled districts is conferred only by section 6, chapter II.; and the local Government, having fixed the limits of the unsettled districts, are now debarred by their own Act from selling them in any other way than that contemplated by that section. Least, however, any doubt should exist as to the intention of the Imperial Legislature, the Secretary of State, in the Despatch before quoted, thus unequivocally disposes of the question:—"Lands in the unsettled districts, according to these regulations, would be put absolutely out of the power of the Crown, and be rendered unavailable for settlement, for the long period of fourteen years; it would therefore be absolutely necessary that no lands should be classed, except those which from the remoteness of their situation you have reason to feel assured will not be required for sale to the public for the purpose of permanent occupation during the term for which the leases will be granted," &c. "I have to instruct you to be most careful upon this point," &c. &c.

It follows, therefore, that the local Government, after this declaration of the law, and after this strong caution, having fixed the limits of the unsettled districts, by so doing proclaimed to the colony that no lands would be sold within those limits except to the occupiers for the term of the lease to be granted to them.

Upon the faith of this assurance hundreds of thousands of pounds have been invested in pastoral pursuits in the unsettled districts, and a refusal to realize it would be a virtual confiscation of a vast amount of property.

(Signed) FRANCIS MURPHY.

Enclosure 31 in No. 7.

To his Excellency CHARLES JOSEPH LATROBE Esquire, Lieutenant-Governor of the Colony of Victoria.

The Memorial of the inhabitants of the colony of Victoria, in public general meeting assembled,

Respectfully showeth—

That your Excellency's memorialists have observed with extreme alarm that the threatened confiscation of a very large proportion of the Crown lands of the colony to a comparatively small body of squatters has met with the sanction of the Legislative Council, a majority of that Honourable House having passed a resolution tantamount to a demand upon the Government for the immediate issue of leases to the squatters, under the Order of the Queen in Council of date 9th March 1847.

That your Excellency's memorialists are decidedly of opinion that leases ought not to issue to the squatters under the Order in Council, as it at present exists, for the following reasons:—

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1st. Because the Order in Council has obviously been framed either in ignorance or misapprehension of the actual state of the colony, and is altogether unsuited either to its present or past condition.

2d. Because the issue of such leases to the squatters would be a great wrong to the community, and would seriously retard the otherwise rapid advancement of the colony.

3d. Because it would be manifestly unjust to hand over above sixty millions of acres, including some of the finest tracts of land in the colony, to less than eight hundred persons, possessing no paramount claims, at a merely nominal rent, and with a ruinous right of purchase at will on preferent terms over all the rest of the community.

4th. Because the evil, already intolerable, as preventing the legitimate settlement of the interior, as driving back to less favoured colonies large numbers of fortunate gold diggers and acceptable colonists, who would otherwise have made Victoria their home, and as standing in the way of food being raised in the immediate vicinity in which it is required, for the large body of people now engaged in gold digging, is hourly increasing, from the rapid influx of immigration from the mother country as well as from the adjacent colonies.

5th. Because, it not being imperative to bring the Order in Council into immediate operation, power being retained for its repeal, alteration, or amendment, should occasion appear to require such a course, it would be wrong to the community, and unjust to the British Government, were the local Executive to force it into operation by the issue of leases to the squatters, in the full knowledge of its injustice and unsuitableness; and the infallible result of their so doing would be to excite a strong and general feeling of dissatisfaction with the imperial rule, which, operating in conjunction with other causes of grievance, would at no very distant period lead to a severance of the connexion with the parent state.

Your Excellency's memorialists therefore pray that your Excellency will suspend the issue of leases to the squatters under the Order in Council, pending the result of an appeal to Her most Gracious Majesty the Queen, praying Her Majesty to make such alterations in the Order in Council as, while it will protect the present occupants of the Crown lands in the occupation of their runs until required for the actual settlement of the colony, will neither invest them with a pre-emptive right of purchase, to the wrong of the whole community, nor leave them a clog on the advancement of the colony.

Encl. 32 in No.

Enclosure 32 in No. 7.

To his Excellency CHARLES JOSEPH LATROBE Esquire, Lieutenant-Governor of the Colony of Victoria.

The Petition of the undersigned landed proprietors, farmers, capitalists, merchants, tradesmen, and others.

Humbly showeth,—

I. That by section 6 of chapter II. of the Orders in Council of 9th March 1847, made by Her Majesty the Queen, in virtue of the authority given to Her Majesty by the Act 9th and 10th Victoria, chapter 104, it is ordered, that during the continuance of any lease of lands occupied as a run the same shall not be open to purchase by any person or persons except the lessee thereof.

II. That the enumeration in section 8 of same chapter of those lands which the Governor may except from such sales plainly shows that the Governor has no power to refuse to sell to any lessee, applying to purchase any portion of his run, any lands which are not reserved for the public uses mentioned in clause 3 of Act 5 & 6 Victoria, chapter 36.

III. That by section 8 no provision is made for ascertaining whether lands claimed under the pre-emptive right possess any peculiar advantages, and late events show that the absence of this provision enables the occupier of Crown lands to select the best sections in his run, and buy them at the minimum price.

IV. That, were section 8 really carried out, the sale of lands to one class at a valuation, and to all the rest at auction, is an act of gross injustice to at least ninety-nine hundredths of the community, the effect of such regulation being clearly to enable the lessee of Crown lands to purchase them below their real value, which can only be ascertained by submitting them to public competition, and thus to extract a per-centage on all sales from the ultimate occupier.

V. That no reason can be shown, from the circumstances of the case, why such advantages should be specially conceded to the licensed occupiers of Crown lands.

VI. That the fact of their having had a long and beneficial occupation of the Crown lands at a mere nominal rent is sufficiently shown by the rental offered by tender for the leases of the Mount Rouse and Barwon aboriginal reserves. That the monopoly for a number of years of the Crown lands at such inadequate rate of payment can be no argument in favour of its continuance.

VII. On the contrary, that the extreme partiality shown towards the licensed occupants of Crown lands, while it has enriched them, has been highly detrimental to other interests, and has enabled the occupants of Crown lands to parade their own importance at the expense of other less favoured classes.

VIII. That particularly the landholders have suffered from being deprived of the labour necessary to give value to their purchases, by the appropriation of the proceeds of the land sales being devoted to the introduction of labour for the squatters, whilst no portion of that fund has been expended in roads and other internal improvements, for the benefit of the farmers in bringing their produce to market, being in direct violation of the plain intention of section 19 of Act 5 & 6 Victoria, and the Despatches of later date from Earl Grey, in which he proposes to endow local councils with the moiety of the land fund raised in their district.

IX. That the effect of a large tract of lands being thrown open for purchase to one small class of the community, at the minimum price of 1*l.* an acre, without any competition, will be to depreciate the value of lands of a similar kind which have been purchased at public auction at a much higher rate, to the great injury of the present proprietors.

X. That the monopoly of the Crown lands by squatters, and the very low and inadequate rental at which they have been held, has necessarily caused a ruinous system of agriculture to be pursued on the purchased lands of this colony, from the impossibility of profitably feeding stock on artificial food, adopting a proper rotation of crops, and manuring the land.

XI. That the sale to the licensed occupants of Crown lands of homesteads, without competition, at the minimum price of 1*l.* per acre, in the most valuable parts of their runs, surrounded by large tracts of pastoral land, by enabling them to undersell the farmers on purchased lands, will cause the entire ruin of that class, to whose capital expended in introducing labour they are mainly indebted for the means of increasing their flocks to their present extent, and by whose industry they have been protected from the enormous prices which were paid for bread-stuffs when they depended on the neighbouring colonies for their supplies.

XII. That from the length of time which has been suffered to elapse since the proclamation of these Orders in Council, your petitioners were fully impressed with the idea that their injustice was recognised, and that no attempt would be made to issue the leases; that late events, however, show that such impression was not well founded, and that your Excellency contemplates taking upon yourself the very serious responsibility of permitting these iniquitous orders to come into operation.

XIII. That there is strong reason for believing that the Orders in Council were framed under a thorough misconception, arising from gross misrepresentations made to the Home Government by interested individuals; and although in the abstract it may be true that promises should be held sacred, yet it is utterly absurd that the circumstances under which these promises were obtained should be kept out of sight, or that the rights of the farmers, landed proprietors, and capitalists, guaranteed to them under the Land Sales Act, 5 & 6 Victoria, which enacts that all lands of the Crown intended for sale should be submitted to public auction, should be cast aside and neglected; circumstances which not only justify but demand the withholding of privileges so inconsiderately conceded to one class only by the framers of the Orders.

XIV. That your petitioners believe the continued monopoly of the Crown lands at a nominal rental wholly disproportioned to the advantages enjoyed; to be in effect a monster fraud upon the territorial revenue of the colony, and a check to the development of its resources, and to the industry of its inhabitants, utterly inconsistent with principles of good government.

Your petitioners therefore pray, that your Excellency will be pleased to postpone the issue of leases to the occupants of Crown lands, and generally to refrain from carrying out the Orders in Council,—at all events so far as they concern lands in the intermediate and unsettled districts,—until a proper representation shall have been made to the Queen in Council, humbly requesting Her Majesty so to alter and amend such Orders as to adapt them to the circumstances of this colony, and to do justice to all classes of Her Majesty's subjects.

And your petitioners, &c.

Signed by 566 of the inhabitants of Geelong and county of Grant, most of them agriculturists.

VICTORIA.

Enclosure 33 in No. 7.

Encl. 33 in No. 7. To his Excellency CHARLES JOSEPH LATROBE Esquire, Lieutenant-Governor of the Colony of Victoria.

The Petition of the undersigned Landed Proprietors, Farmers, Capitalists, Merchants, Tradesmen, and others of the Town of Kyneton and surrounding Country within the District of Mount Macedon, in the Colony aforesaid,

Humbly showeth,

1st. THAT by certain Orders in Council of the 9th of March 1847 it appears, that during the continuance of any lease of lands occupied as a run that the Government has no power to refuse to sell to any lessee applying to purchase any portion of his run any lands which are not reserved for public uses, thus enabling him to select the best sections in his run, and buy them at the minimum price.

2d. That the sale of lands to the squatter at a valuation, and to the rest of the colonists at auction, appears to your petitioners an act of gross injustice, the effect of such practice being clearly to enable the squatter to purchase them below the real value, which can only be ascertained by submitting them to public competition; and as no solid reason can be shown why such advantage should be specially conceded to the present occupiers of Crown lands, your petitioners conceive that such iniquitous practice should be discontinued.

3d. That the sale to the licensed occupants of Crown lands of homesteads without competition, at the minimum price of one pound per acre, in the most valuable parts of their runs, surrounded by large tracts of pastoral lands, by enabling them to undersell the farmers on purchased lands, will cause the entire ruin of that class to whose capital, expended in introducing labour, they are mainly indebted for the means of increasing their flocks to their present extent.

4th. That your petitioners have the happiness of living in a district proverbial for its agricultural capabilities, a large portion of which has been surveyed and laid out as farms, for the most part possessing the splendid advantage of river frontage; and that these desirable farms have been applied for repeatedly, and in every case, when proclaimed for sale by auction, withdrawn from public competition, by the obnoxious exercise of the pre-emptive right vested in the squatter, and the capitalist thereby prevented from bringing under cultivation soil capable of producing the most abundant crops.

5th. That the monopoly for a number of years by the squatters of Crown lands at inadequate rates of rental can be no argument in favour of the continuance of the concession of such privileges; but, on the contrary, the extreme partiality shown towards the licensed occupants of Crown lands, while it has enriched them, has been highly detrimental to other interests, and has enabled them to parade their own importance at the expense of other less favoured classes.

6th. That the continued monopoly of the Crown land, at a nominal rental, wholly disproportioned to the advantages enjoyed, is in effect a monstrous fraud upon the territorial revenue of the colony, and a check to the development of its resources and to the industry of its inhabitants, utterly inconsistent with the principles of good government.

Your petitioners therefore pray, that your Excellency will be pleased to postpone the issue of leases to the occupants of Crown lands, and generally to refrain from carrying out the Orders in Council,—at all events so far as they concern the intermediate and unsettled districts,—until a proper representation shall have been made to the Queen in Council, humbly requesting Her Majesty so to alter and amend such Orders as to adapt them to the circumstances of this colony, and to do justice to all classes of Her Majesty's subjects.

And your petitioners, as in duty bound, will ever pray, &c.

[Here follow 270 signatures, principally landholders.]

Encl. 34 in No. 7.

Enclosure 34 in No. 7.

SIR, Melbourne, August 26, 1852.

WE, the undersigned members of the Legislative Council of this colony, have the honour to request an interview with his Excellency the Lieutenant-Governor, at the earliest time that may be convenient for his Excellency, prior to the despatch of the mail for the steamer "Chusan."

We may emphatically state that our object, with reference to this proposed interview, is one of the deepest importance to the welfare of this colony.

1. To bring in the most serious manner before his Excellency's notice the total unsuitableness to the present and prospective condition of the colony of the system of leases and pre-emptive rights, as contemplated by the Orders in Council of 1847; and to urge upon his Excellency to counteract, by the most prompt and imperative Despatches upon this vital question, even the bare possibility of these Orders being brought into operation, by the tenor of any reply which may be made by the home Government to the present agitation on this subject in the colony,—a contingency that cannot be contemplated without feelings of the profoundest apprehension.

2. To set forth the urgent and instant necessity for opening up the country, by the sale of agricultural lands, in quantities commensurate with the means, requirements, and

demands of the colonists, and more particularly with reference to the multitudes of our fellow countrymen who are now daily pouring by ship loads into this colony.

We would call his Excellency's attention to the fact, as reported to us, that there is on an average one half of our entire colonial population resident at the Gold Fields, and that during all the present winter this immense host of human beings has been exposed to an expense of from 80*l.* to 150*l.* a ton for the mere carriage of the necessaries of existence. It is therefore to be deeply deplored that the past autumn was suffered to go over without bringing into the market lands in the vicinity of these Gold Fields, available for tillage, in order that opportunities might have been afforded there of raising grain and other necessaries for the use of the mining population.

We shall be happy to be assured by his Excellency that another autumn will not be permitted to pass without the accomplishment of this desirable and necessary object.

It is represented to us, that thousands of our fellow colonists, many of whom are attended by their families, at the Gold Fields, are daily and anxiously waiting an opportunity of acquiring small sections of land near these localities, whereon they might erect homesteads, and pursue gardening and agriculture.

We have, &c.

(Signed) A. Thomson. W. Westgarth.
J. S. Johnston. James F. Strachan.
Henry Miller. Charles H. Dight.
Joan O'Shanassy. J. F. Smith.
John P. Fawkner.

The Private Secretary,
&c. &c.

Enclosure 35 in No. 7.

Encl. 35 in No. 7.

Extract from Votes and Proceedings of the Legislative Council of 28th July 1852.

Extension of the Settled Districts.—Mr. Fawkner moved, pursuant to notice, That an address be presented by this Council, requesting his Excellency the Lieutenant-Governor to represent to the Queen in Council the urgent necessity for extending the area of the settled districts in Victoria, and that his Excellency will be pleased to strenuously urge upon the home authorities the vast importance of this extension, and the necessity for its instant adoption; and that such a large addition has been and is daily being made to the population of this province, in consequence of the gold found here, that not less than the whole of the intermediate district, together with all that extent of country in which gold can be profitably worked, ought to be included in and under the title of settled districts.

Mr. Rutledge moved, as an amendment, That all the words after "That" be omitted, with a view to insert the words, "leases be immediately issued to the occupants of Crown 'lands,' to bear date on the 7th April 1848, in order that the lands may be opened for sale, under the Orders in Council of the 9th March 1847, in quantities to meet the demand of the increasing population of the colony."

Debate ensued.

Mr. Johnston moved as an amendment to the amendment proposed by Mr. Rutledge, That the following words be inserted after the word "lands," viz., "in the intermediate districts."

Debate ensued.

Question—That the words of the original motion, proposed to be omitted, stand part of the question—put and negatived.

Question—That the words proposed to be inserted in the amendment first proposed be so inserted—put.

Council divided.

Ayes, 9.	Noes, 18.
Mr. Smith.	The Colonial Secretary.
Mr. Miller.	The Attorney-General.
Mr. Westgarth.	The Auditor-General.
Mr. Johnston.	The Chairman of Quarter Sessions.
Dr. Thomson.	Mr. a'Beckett.
Mr. Fawkner.	Lieut.-Colonel Anderson.
Mr. Strachan.	Mr. Campbell.
Mr. Dight.	Mr. Riddell.
Mr. O'Shanassy (Teller).	Mr. Turnbull.
	The Solicitor-General.
	Mr. Goldsmith.
	Mr. Russell.
	Mr. Snodgrass.
	Mr. Wilkinson.
	Mr. Rutledge.
	Mr. Mercer.
	Mr. Murphy.
	Mr. Splatt (Teller).

VICTORIA.

Question—That the words proposed to be inserted in the place of the words of the original motion omitted be so inserted—put.

Council divided.

Ayes, 18.	Noes, 9.
Mr. Murphy.	Mr. Smith.
The Colonial Secretary.	Mr. Miller.
The Attorney-General.	Dr. Thomson.
The Solicitor-General.	Mr. Fawkner.
The Auditor-General.	Mr. Johnston.
Lieut.-Colonel Anderson.	Mr. Strachan.
Mr. a'Beckett.	Mr. Westgarth.
Mr. Russell.	Mr. Dight.
Mr. Campbell.	Mr. O'Shanassy (Teller).
Mr. Riddell.	
The Chairman of Quarter Sessions.	
Mr. Splatt.	
Mr. Wilkinson.	
Mr. Turnbull.	
Mr. Snodgrass.	
Mr. Goldsmith.	
Mr. Rutledge.	
Mr. Mercer (Teller).	

Question—That leases be immediately issued to the occupants of Crown lands, to bear date on the 7th April 1848, in order that the lands may be opened for sale under the Orders in Council of the 9th March 1847, in quantities to meet the demand of the increasing population of this colony—put and passed.

EXTRACT from Votes and Proceedings of the Legislative Council of 17th August 1852.

Assessment Act Continuation Bill.

C. J. Latrobe, Lieutenant-Governor. Message No. 19.

In pursuance of the provisions of the Statute 5th and 6th Victoria, cap. 76., the Lieut.-Governor transmits to the Legislative Council the draft of "A Bill to continue an "Act passed in the Fourteenth Year of the Reign of Her present Majesty, intituled "'An Act to authorize for a limited Time an Assessment upon Stock pastured beyond the "'Settled Districts of New South Wales.'"

Government Offices, Melbourne, August 17, 1852,

Ordered to be printed, together with the accompanying Bill, and taken into consideration to-morrow.

3. Assent to Bill.—The Colonial Secretary reported that his Excellency the Lieutenant-Governor had been pleased to give the Royal Assent to "The Tariff Bill."

4. Pre-emptive Right to Crown Lands.—Mr. Fawkner moved, pursuant to notice, That an Address be presented to his Excellency the Lieutenant-Governor, that he will be pleased to withhold the granting of all "lands" to all persons who have claimed, or may claim, lands under the so-called pre-emptive right, conferred, or supposed to be conferred, by the Orders in Council dated England in 1847, until this matter shall have been brought under the notice of Her Majesty and Council.

Debate ensued.

Mr. Pohlman moved as an amendment the insertion after the word "lands" of the words, "beyond the homesteads or such quantiy of land as to his Excellency may appear proper in each particular case."

Debate ensued.

Question,—That the words proposed to be inserted be so inserted—put and passed.

Question—That an Address be presented to his Excellency the Lieutenant-Governor, that he will be pleased to withhold the granting of all lands beyond the homestead, or such quantity of land as to his Excellency may appear proper in each particular case, to all persons who have claimed, or may claim, lands under the so-called pre-emptive right, conferred, or supposed to be conferred, by the Orders in Council dated England in 1847, until this matter shall have been brought under the notice of Her Majesty and Council—put and passed.

EXTRACT from Votes and Proceedings of the Legislative Council of 20th August 1852.

4. Correspondence respecting Sale of certain Crown Lands.—Mr. Fawkner moved, pursuant to notice, that an address be presented to his Excellency the Lieutenant-Governor of Victoria, that he will be pleased to cause to be laid on the table of this House—Copies of all the correspondence that has passed between the local Government and W. N. Gray, Crown Commissioner, and also with Messrs. Hugh Murray and John Learmouth, respecting the lands described as applied for by them severally, at or near

Buninyong and Colac, thus described in the return ordered by the Council to be printed 25th June 1852 :—

Applied for 27th April 1850. John Learmouth, 480 acres, lots A, B, and C, portion 1,160 acres each, near S.W. corner of Buninyong township reserve, county of Grant; name of valuator, W. N. Gray, C C.; valued at 1*l.* per acre, 480*l.* for 480 acres.

Next, 27th May 1850. Hugh Murray, 632 acres, section 1, parish of Ellimynt, adjoining east boundary of Colac township reserve, county of Polworth; valued by W. N. Gray, C.C. as above, at 1*l.* per acre, 632 acres 632*l.*

Together with a copy of instructions to the said valuator as to how he was to arrive at the value of the land; and, further, the date at which the decision was arrived at that these lands were only worth 20*s.* per acre; and also a return of all lands sold, both at Colac and Buninyong, distinguishing town lots from suburban; the date of each sale, the quantity and person to whom sold, the price per acre, and the gross quantity of acres sold and of cash received at each sale, to June 30th, 1852.

Debate ensued.

Question put and passed.

5. Addresses.—The Speaker announced to the Council that he had, pursuant to the resolutions of this Council, presented the following addresses to his Excellency the Lieutenant-Governor, viz. :—

No. 31. District Council of Grant. Adopted on the 12th August 1852, on the motion of Mr. Mercer,—

and that his Excellency had, in reply to such address, been pleased to state that he would direct the Colonial Secretary to lay upon the Council table any such correspondence as might be found.

No. 32. Pre-emptive right to Crown lands. Adopted on the 17th August 1852, on the motion of Mr. Fawkner,—

and that his Excellency had to such address been pleased to reply as follows :—

"In replying to this address would take occasion to advert to the expression of opinion on the part of the Council which I find has been recorded at an earlier period of the session (July 28), relative to the propriety of the immediate issuing leases, bearing a specified date, under the Orders in Council of the 9th March 1847, to the occupants of Crown lands, in order that land may be thrown open for sale in quantities to meet the demands of the increasing population of the colony.

"I may remark, that it does not appear to be in my power to direct the definitive issue of these leases without very considerable further delay. The whole question which this issue involves is one, I conceive, to be of the greatest importance to the colony.

"While, therefore, I consider it my duty to make every effort to comply with the main provisions of the Orders referred to, and to proceed with the measures preparatory to such issue, and further hold that it is both just and reasonable that the authorized occupant of the waste lands of the Crown for pastora purposes should feel himself secure in the undisturbed occupation of those lands so long as the general interests may not demand their final appropriation by sale or otherwise for other purposes, I am fully disposed to yield to what appears to be the wish of the Council, and to bring the whole subject under the attention of the Home Government, in order that before leases finally issue some of the subordinate provisions of the above Orders, and certain points upon which there exists a grave discrepancy of opinion, may be duly weighed, explained, and disposed of under Her Majesty's authority, full assurance being attained that while the interests of one most important class of colonists are suitably provided for, the general welfare of the colony is in nowise perilled. I shall take an early opportunity of communicating upon the subject with the Secretary of State.

"In the interval, the claimants for leases will be enabled to take advantage of the privilege conceded by the Government notice of the 28th June 1850, to purchase, under pre-emptive right, their homestead section or other limited portion of their runs.

"Due notice will be given of the portions of land which it may be proposed formally to exclude on broad public grounds from lease when issued, though, until finally withdrawn from occupation by sale or grant, the right of the present licensee to exclusive occupation of the same will remain unquestioned. And, lastly, in conformity with the powers which the Lieutenant-Governor is held to possess and has already exercised, such portions of the Crown lands comprised within those reserves as may be clearly required for the public and general advantage of the colony may be brought into the market without being held subject to pre-emptive right.

(Signed) "C J. Latrobe."

Enclosure 36 in No. 7.

Encl. 36 in No. 7.

RETURN showing the Number of Applications to purchase Lands within the Settled Districts under pre-emptive Right, in accordance with the Regulations of 8th December 1851, which have been laid before the Land Board, distinguishing the Numbers and Quantities of those allowed and awaiting Decision, together with the average Price as far as can be ascertained.

District.	Applications dealt with.		Allowances.		Average Price per Acre.	Awaiting Decision.	
	Numbers.	Quantities.	Numbers.	Quantities.		Numbers.	Quantities.
		Acres.		Acres.	£ s. d.		Acres
Settled districts of the colony - - -	149	101,032	133	36,480	1 0 7	19	9,100

The total quantity of Crown Lands held under lease within the settled districts under the 22d clause is 1,384,507 acres.

The award of the board has never exceeded the extent of 640 acres on each run.

(Signed) R. HODDLE, Surveyor-General.

Note.—It may be remarked, that in addition to the above purchases under the system of valuation, the large purchase of W. J. T. Clarke to the extent of 31,375 acres, county of Bourke, sanctioned by the Governor-General under the 25th clause of the Regulations of the 1st March 1843, based upon the Imperial Act 6 Vict. c. 26., previous to the separation of the colonies, was effected in the same manner, and was allowed at the upset price of 1*l.* per acre.

RETURN showing the Number of Applications to purchase Land in the Intermediate and Unsettled Districts under pre-emptive Right, in accordance with the Regulations of the 28th June 1850, which have been laid before the Land Board, distinguishing the Quantities so allowed and awaiting Decision, together with the average Price so far as can be ascertained.

District	Applications dealt with.		Allowances.		Average Price per Acre.	Awaiting Decisions.	
	Numbers.	Quantities.	Numbers.	Quantities.		Numbers.	Quantities.
		Acres.		Acres.	£ s. d.		Acres.
Portland Bay - -	68	94,677	47	22,719			
Western Port - -	36	32,107	31	14,683			
Murray - - -	6	2,447	5	2,138	1 0 8½	49	19,672
Gipps Land - -	3	486	1	160			
Wimmera - - -	1	320	1	320			
Totals - -	114	130,037	85	40,020	- -	49	19,672

The award of the board has not exceeded the extent of 640 acres on each run.

(Signed) R. HODDLE, Surveyor-General.

Encl. 37 in No. 7.

Enclosure 37 in No. 7.

CROWN LANDS.

Commencement of Pastoral Leases.

Colonial Secretary's Office, Sydney,
October 28, 1851.

HIS Excellency the Governor-General, with the advice of the Executive Council, has been pleased to establish the following regulation with respect to the dates from which are to be computed the terms of the leases to be issued for Crown lands in the intermediate and unsettled districts, under Her Majesty's Order in Council of the 9th March 1847.

2. As in consequence of the unavoidable delay that has occurred in the intended issue of pastoral leases, the licensed occupants of Crown lands have not hitherto been in the enjoyment of all the advantages which would have accrued to them from the possession of such leases, and as, moreover, it is known that many persons, in the full conviction that the terms of the leases would be computed from the date of issue, have disposed of their interest in pastoral runs subject to that condition, his Excellency, with the advice of the Executive Council, has been pleased to direct, that in regard to all leases to be issued, both for lands held under licensed occupation previously to the promulgation of the Order in Council above referred to, and for runs *hitherto* acquired by tender, the maximum terms of eight years and fourteen years, as the case may be, shall commence from a future certain day, namely, 1st January 1852, without reference to the actual date

on which the leases may issue, but that with respect to all runs hereafter taken up by tender, the duration of the lease shall be computed from the date of the first payment of rent under the accepted tender.

By his Excellency's command,
(Signed) E. Deas Thomson.

Enclosure 38 in No. 7.

Encl 38 in No. 7.

Crown Lands beyond the Settled District.

Reserves from Lease.

Crown Lands Office, Sydney, March 11, 1852.

It is hereby notified, for general information, that his Excellency the Governor-General has been pleased, with the advice of the Executive Council, to direct that the several portions of Crown lands hereunder described * shall be reserved from lease, under Her Majesty's Order in Council of 9th March 1847, subject to the following limitations in favour of the licensed occupants thereby affected.

* This lengthy description of the boundaries of various runs is not printed.

2. The formation of the intended reserve may in any case be defeated wholly or in part by the licensed occupant whose run is thereby affected exercising within twelve months from the present date the pre-emptive right conferred on him by Her Majesty's Order in Council of 9th March 1847 in respect of the whole or any portion of the land proposed to be reserved.

3. No such pre-emption can be of less extent than 160 acres, and if less than 320 acres the cost of measurement will have to be borne by the purchaser.

4. The price at which the licensed occupant of the run will be allowed thus to purchase without competition will be one pound per acre, or such higher price as may be fixed by valuers appointed under section 8 of chapter II. of the Order in Council.

5. Every lot of land to be selected must be measured in accordance with the general rules laid down in section 7 of chapter II. of the same Order in Council.

6. Should the licensed occupant fail to exercise his pre-emptive right in respect of the whole or any part of the land proposed to be reserved within twelve months from the present date, the reservation of the whole or the remainder, as the case may be, will then become absolute and indefeasible.

7. It is of course distinctly to be understood that by this general formation of reserves the Government does not in any way divest itself of the right of making hereafter such further reserves, whether before or after the issue of the leases, as the public interests may dictate.

8. The foregoing regulations are intended to apply to runs out of which reserves are now for the first time about to be made.

(Signed) Geo. Barney,
Chief Commissioner of Crown lands.

Enclosure 39 in No. 7.

Encl. 39 in No. 7.

At a large and most influential Meeting of the licensed occupants of Crown lands held this 2d day of September 1852 at the "Prince of Wales" Hotel, Melbourne, Victoria, for the purpose of preparing a Petition to Her Majesty in reference to the Rights of the Petitioners arising under the Orders in Council; John Carre Riddell, Esq., M.L.C., in the chair;

1. It was proposed by Mr. John Goodman, J.P., and seconded by Mr. Alexander Cunningham, J.P., and carried unanimously:

"That the pastoral tenants of the Crown in the colony of Victoria having been assured of the possession of leases for one, eight, or fourteen years respectively in the settled, intermediate, and unsettled districts by Her Majesty's Orders in Council dated 8th March 1847, founded on an Act of the Imperial Parliament, have a just claim to have those orders which came into operation on the 7th October 1847 carried out according to their spirit and real intention, as more fully explained in Lord Grey's despatches of 20th November 1846 and 20th March 1847."

2. Proposed by Mr. William Campbell, M.L.C., and seconded by Mr. W. T. Splatt, M.L.C., and carried unanimously:

"That claims to leases, with the privilege of purchasing at a valuation, became marketable through the sanction of Government by the proclamation of 1st January 1848, and that a very large proportion of the present holders have purchased their claims at a high value, so that property to a large amount has changed hands under such pledges of public faith, and in the fullest confidence that the law affecting so great an interest would be held sacred by the British Parliament."

3. Proposed by Mr. William Forlonge, and seconded by Mr. A. Campbell, and carried unanimously:

"That the demand for land is fully provided for by many millions of acres within the settled and intermediate districts, which under the Orders in Council may be made available for sale for agricultural purposes."

VICTORIA.

4. Proposed by Mr. Colin Campbell, and seconded by Mr. Horace Wills, and carried unanimously:

"That the squatters of this colony, while they admit that the agricultural wants of the community should be amply provided for, are also of opinion that the maintenance of the pastoral interests is of still greater importance, as they supply a large export of wool required at home for manufacturing purposes, and at the same time provide a sufficient supply of animal food, which cannot be imported, for the use of a rapidly increasing population, and that a system of long leases for pastoral purposes is calculated greatly to develop the resources of the colony by justifying the expenditure of capital on valuable improvements."

5. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Compton Ferrers, J.P., and carrried unanimously:

"That while the pastoral tenants of the Crown are denounced as conspirators against the peace and prosperity of the colony by men who advocate the subdivision of the public lands among the people at large, and the confiscation of existing interests, they have ever occupied the position assigned to them by the Crown, and discharged its obligations with loyal submission as colonists and British subjects, and that they now believe that those who combine the possession of property and intelligence, both in town and country, are favourable to the maintenance of that pastoral system which has proved so beneficial to all classes of the colony."

6. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Adolphus Goldsmith, M.L.C., and carried unanimously:

"That the following gentlemen,

J. C. Riddell, Esq., M.L.C.,
W. Campbell, Esq., M.L.C.,
John Goodman, Esq., M.L.C.,
William Forlonge, Esq., and
Colin Campbell, Esq.,

be appointed a committee to transmit a copy of the foregoing resolutions to his Excellency the Lieutenant-Governor in time to go home by the 'Chusan' steamer."

A vote of thanks to the chairman being passed, the meeting separated.

(Signed) J. Carne Riddell,
Chairman.

No. 8.

No. 8.

Copy of a DESPATCH from Lieut.-Governor LaTrobe to Sir John S. Pakington, Bart.

(No. 132.) Melbourne, September 25, 1852.

Sir, (Received December 28, 1852.)

* Page 97.

Referring to my Despatch, No. 111,* of the 3d of September 1852, with its important enclosures, I have now the honour to transmit a petition addressed to Her Majesty by certain of the licensed occupiers of waste lands of the Crown in the colony of Victoria, on behalf of themselves and other licensed occupants, which I would request you to take a suitable opportunity of laying before Her Majesty.

2. This document has come into my hands at so late an hour before the sailing of the "Australian" that it is quite impossible for me to accompany it with any detailed remarks, and yet to withhold its transmission might occasion great disappointment to the important section of the colonists whose views and interests it is intended to advocate. However, I may be held, in one or other section of the Despatch cited above, to have anticipated the more important statements and comments which it might otherwise have been my duty to have accompanied it.

3. My wish is, that the whole of this important question which the case brought under your notice involves should be weighed in all its bearings, and I can take no grave exception to the view taken by the gentlemen who have signed this petition of what they conceive to be their claims as a body, and of the rights which they have acquired under the Orders in Council. It may be held to be a natural if not a sound one in all respects.

I have, &c.,
(Signed) C. J. LATROBE.

The Right Hon. Sir John S. Pakington, Bart.
&c. &c. &c.

P.S.—I likewise transmit a letter which accompanied the petition.

(Signed) C. J. L.

Enclosure in No. 8.

SIR, Melbourne, September 25, 1852.

REFERRING to the letter which I had the honour to address to your Excellency enclosing certain resolutions (adopted at a meeting of Crown tenants, of which I was chairman, in reference to their rights under the Orders in Council), to be forwarded to Her Majesty's Secretary of State for the Colonies, I have now the honour to forward the memorial based on these resolutions.

I beg to state, for your Excellency's information as well as that of the Right Honourable the Secretary of State for the Colonies, that the memorial contains a simple statement of facts of memorialists' case, and would have been signed by almost every tenant of the Crown had time permitted of its being sent into the interior. As it is, the memorial is agreed to by all that are resident within reach of Melbourne.

Understanding that your Excellency is forwarding by the steamer "Australia" Despatches in reference to these Orders in Council, the memorialists feel it their duty to forward their memorial with such signatures as they have been enabled to get to it.

To your Excellency it may be unnecessary to mention that were the memorialists to delay forwarding the memorial until time admitted of its being sent into the interior for signature, many months would be consumed, from the impassable state of the country at this period of the year. Under these circumstances, the memorialists consider they will be best consulting the interests of the colony and the Government by forwarding the memorial at once, with such signatures as have been obtained to it; and they trust that your Excellency will in forwarding the memorial, be pleased to bring under the notice of the Secretary of State for the Colonies the feelings that have induced them to adopt such a course.

I have, &c.,

His Excellency C. J. LaTrobe. (Signed) J. CARRE RIDDELL.

To the Queen's most Excellent Majesty.

The humble Petition of the undersigned licensed occupiers of waste lands of the Crown in the colony of Victoria, on behalf of themselves and the other licensed occupiers,

Showeth,

That the great bulk of the waste lands of the Crown in this colony was first discovered and occupied by the present licensed occupants, or by their predecessors, whose interests in such waste lands, as conferred by the Crown, they purchased, and whom they now represent.

That the flocks and herds introduced by Your Majesty's petitioners and their predecessors have given a value to the land which could have been imparted to it in no other way, and have been the means of creating an export of wool and tallow which has been hitherto the chief cause of the prosperity of this colony, and proved of vast importance to the mother country, the trade of the merchant, the shopkeeper, the artisan, and agriculturist each receiving a stimulus from the large amount of money and merchandise introduced in exchange for this export, and disseminated in the shape of high wages and other expenditure through the entire community.

That the value of this export of wool and tallow amounted in 1850 to upwards of one million pounds sterling.

That in the discovery and settlement of this country Your Majesty's petitioners and those whom they represent expended much capital, experienced great personal hardships and made great social sacrifices, were continually exposed to great risk of life and property, passing a life of great hardship and privation; and that for many years, owing to the high price of labour, to the losses consequent on a new settlement, and other causes, the profits of your petitioners were so small and precarious that many of the first settlers became insolvent.

That in consideration of the causes shortly stated above, and for divers other good reasons, an Act was passed by the Imperial Parliament in the year one thousand eight hundred and forty-six, empowering Your Majesty to grant leases of eight and fourteen years to your petitioners, and to make regulations by Order in Council as to the terms on which such leases should be granted, and for other matters connected therewith, as more fully alluded in the explanatory Despatches of Your Majesty's Secretary of State to the Governor of New South Wales accompanying the Order in Council.

That in pursuance of the authority thus vested in Your Majesty, Your Majesty did, on the eighth day of March one thousand eight hundred and forty-seven, by Order in Council, divide the lands of this colony into three classes, called respectively the settled, intermediate, and unsettled districts.

That by these Orders Your Majesty declared that the occupants of land in the unsettled districts should be entitled to demand leases of their respective runs, and the Governor was empowered to grant such leases for fourteen years, subject to certain reservations for public purposes therein specified.

That within lands coming under the description of intermediate lands Your Majesty further declared that leases should be acquired on similar conditions, but that they should

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only last for eight years; and that, at the expiration of each year of the lease, the Governor, on giving to the lessee sixty days notice, might offer the whole or any part of such lands for sale by auction, subject to the right of the lessee to purchase any portion of them at their fair value, ascertained by arbitration in the mode pointed out by such Orders.

That in the settled district leases for exclusively pastoral purposes should be granted for one year, but revocable should the land be required for sale.

That the settled district comprises all lands within twenty-five miles of Melbourne, fifteen of Geelong, ten of Portland, Alberton, and Belfast, and within two miles of the sea-coast of the whole colony. This is computed to contain an area of about three millions of acres.

That the intermediate district comprises the sixteen counties of Victoria, and the whole of Gipps Land not contained in the settled district, and is computed to contain about twenty millions af acres.

That the purchased land amounts to about four hundred thousand acres, not one-tenth part of which has ever as yet been brought under the plough; while the cultivation of the arable lands which were under tillage previous to the discovery of the gold has been since then in a great measure abandoned for the more lucrative pursuit of gold digging, and that there are upwards two millions and a half of acres which may be put up for sale by public competition as soon as the surveys of them are complete, and twenty millions which may be put up for sale at the expiration of each year of lease, subject to the proviso permitting the lessee to purchase such portion as he may require at its fair value. So that with a population of one hundred and twenty thousand, or even if it amounted to many millions, there is no just pretence for saying that there is not sufficient land at present obtainable for all agricultural purposes required by the colony, or that the lands of the colony would be confiscated, or occupied prejudicially to the general interests of the colony, if leases for the limited terms contemplated by the Orders in Council were issued to the licensed occupants, the public interest being protected by the proviso above cited.

That your petitioners have made their claims for leases within the time prescribed by the Orders in Council; but that, owing to some cause with which your petitioners are not acquainted, the Lieutenant-Governor of this colony has not issued any leases to your petitioners, nor has he declared when they are to issue, nor the time from which they are to date, although frequently requested so to do, and although the Governor-General in the neighbouring colony of New South Wales has declared that in that colony leases under these orders are to issue and to bear date the 1st of January 1852.

That on the faith of these Orders in Council many persons have invested their entire capital in the purchase of runs, and that claims to leases, with the privilege of purchasing at a valuation, were made transferable, through the sanction of Government, by the proclamation of the 30th of June 1848, the language of which is so clear and expressed as to the right to sell leases which many of Your Majesty's petitioners have bought, that they cannot but consider that it will be impossible to deprive Your Majesty's petitioners of the rights acquired by them under so express a sanction without disregarding entirely those principles which are essential to the protection of property and of public faith.

That very large sums of money have, upon the faith of the above proclamation, been paid by persons settling in this colony in the purchase of leases by such proclamation authorized to be sold, believing that the capital brought over by them for the purpose of investment and enterprise could not be more securely laid out or more beneficially employed than in the acquiring of an interest guaranteed by the Crown in connexion with an occupation to which the colony owed its progress, and by which the mother country had been and still is immensely benefited.

That about ten months ago gold in large quantities began to be discovered in this colony, and that every succeeding month has shown the exclusive richness of the deposits of this metal. That in consequence of this discovery there has been a large influx of gold seekers from the neighbouring colonies, the population of Victoria having increased in a few months from seventy-seven thousand souls to about one hundred and twenty thousand.

That the wealth derived from the Gold Fields has more than kept pace with the increase of population, upwards of four millions of pounds sterling in value having been raised in the short time mentioned; and that from these causes all property in the colony, with the exception of sheep, has risen in value; but that as yet, owing to the difficulties of procuring labour, the effects of the gold discovery have been most disastrous to the sheep farmer, the increased demand for the carcase being not more than equivalent for the stoppage of the export of tallow consequent on the want of hands at the melting establishments; while the expenses of rearing stock is greatly increased by the want of labour before alluded to.

That the withholding of leases on the part of the Government has discouraged your petitioners from taking those steps for dispensing with labour which they might otherwise have taken; by fencing in same, and procuring permanent water by artificial means, The present great want of manual labour in the colony, joined with the before-mentioned withholding of the leases, is certain materially to impair, both in quality and quantity, that export of wool which has conduced so much to the past prosperity of this

colony, and has at the same time promoted the manufacturing interests of the mother country.

That a party in this colony look with jealousy at the increased value which the holdings of your petitioners, in common with all other property, are likely to derive from the discovery of gold, and, as your petitioners are informed, have petitioned Your Majesty to revoke the Orders in Council, and to break Your Majesty's promise, and the good faith of Parliament pledged to your petitioners.

That Your petitioners feel that it might be considered an insult to Your Majesty to conclude with a prayer that Your Majesty would preserve inviolate a pledge solemnly given; it is therefore from no distrust in Your Majesty's good faith that they now approach Your Majesty on this subject, which they would not have done did they not fear that their silence might be construed into an approval of the proceedings of these persons before mentioned, and an indifference to their own rights.

Your petitioners, therefore, pray that Your Majesty will give directions to the Lieutenant-Governor of Victoria to carry out the Orders in Council in the spirit in which they were made, by issuing leases to your petitioners, dated, as proposed by the Governor-General in New South Wales from the first day of January one thousand eight hundred and fifty-two, and securing to them the rights guaranteed by those Orders.

And your petitioners will ever pray, &c.

(Signed) W. F. SPLATT, M.L.C.
And 66 other signatures.

No. 9.

No. 9.

COPY of a DESPATCH from Lieut.-Governor LATROBE to Sir JOHN S. PAKINGTON, Bart.

(No. 139.) Melbourne, October 7, 1852.

SIR, (Received January 22, 1853.)

REFERRING to my Despatches, No. 111* of September 3d and No. 132 * of the 24th September, with their various enclosures, I have now the honour to transmit the accompanying further documents, as per margin, all bearing upon the question of the operation of the Orders in Council of March 1847 and the existing regulations respecting the leases of Crown lands, and elucidating the views and opinions of the respective parties to the discussion which has arisen of late.

* Pages 97 and 152.

I have, &c.,
(Signed) C. J. LATROBE.

The Right Hon Sir John S. Pakington, Bart.
&c. &c. &c.

Enclosure 1 in No. 9.

SIR, Euroa, September 12, 1852.

I DO myself the honour to enclose a letter to the Right Honourable Sir John Pakington, Her Majesty's Secretary of State for the Colonies, and have to request the same may be forwarded by the first opportunity through the usual official channel.

The letter is purposely left unsealed, in order that his Excellency the Lieutenant-Governor may have an opportunity of making such remarks therein as to his Excellency may seem fit.

I have, &c.
The Hon. the Colonial Secretary. (Signed) W. FORLONGE.

SIR, Euroa and Seven Creeks, September 12, 1852.

I DO myself the honour, with great respect, to call your attention to one of the most vital questions (either of an imperial or colonial nature) which has ever been brought before Her Majesty's Government, more especially at this critical juncture in Australian affairs.

That question is, "*The disposition of the waste lands of the Crown in the colony of Victoria.*"

I would premise, that I am the largest stockholder and occupier of Crown lands in the Murray district of this colony (a very large one), and feel deeply interested in the result of this question, not only individually, but as one anxious for the welfare of my adopted country.

I would further state, that I have acquired the whole of my runs (which are all in the unsettled districts) since the promulgation of the Orders in Council of 1847.

You are no doubt aware that a law was passed in 1846 empowering Her Majesty, with the advice of the Privy Council, to frame regulations for the occupation of the waste lands of the Crown in the Australian colonies, and that such regulations should have the force and effect of law in the colony.

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In accordance with the power thus vested in Her Majesty, Her Majesty did, with the advice of the Privy Council, frame certain rules and regulations, which came into operation on the 7th October 1847, and have since had the force and effect of law in the colony.

By the Orders in Council the waste lands of the Crown in the Australian colonies were divided into three classes, viz. the settled, intermediate, and unsettled districts.

In the settled districts, leases for one year for pastoral purposes were granted to the occupants.

In the intermediate districts, leases for eight years, with a right of pre-emption to all or any portion of a run (at a price not less than 1*l.* per acre), were conceded to the occupants, determinable, nevertheless, at the expiration of each year, on the lessee receiving sixty days' notice.

In the unsettled districts, the licensed occupants were entitled to demand leases for their respective runs for fourteen years, together with a pre-emptive right to all or any portion of their runs.

It was further provided in the Orders in Council, that the Governor should have the power, until 31st December 1848, to include the whole or any portion of this colony, as in the intermediate districts.

This power his Excellency the Governor exercised to a very great extent, by proclaiming and fixing the boundaries of many new counties previous to that date.

The remainder of the Crown lands (save the settled districts) thus came under the rules applicable to lands in the unsettled districts.

Such, then, is the law under which the licensed occupants of Crown lands in this colony now hold their runs.

It has been recognised and acted upon in many cases by the local Government, and by special Government notices bearing dates 31st January and 30th June 1848 those rights conceded by the Orders in Council were rendered transferable, by the occupant complying with certain conditions therein specified.

On the faith of the Orders in Council or the law (recognised and acted upon as those Orders have been by the local Government), millions have been invested in pastoral pursuits, more especially in the unsettled districts, where a positive guarantee of undisturbed possession for fourteen years warranted such investment, as also a large outlay of capital in improvements, such as building good and sufficient wool sheds, comfortable houses, importing iron wire fencing, likewise in improving the breed of the stock, by importing pure Saxon rams, English bulls and horses, and otherwise adopting means for rendering pastoral pursuits both profitable and agreeable, all feeling secure under the law pledged to the licensed occupants of Crown lands through our beloved Queen.

A manifest improvement in the social and moral condition of the squatters has taken place since the promulgation of the law of 1847, consequent upon the fixity of tenure conceded by that law.

The high character the wools from Port Phillip have attained in European markets speaks volumes for the interest the squatters now take in their once neglected flocks.

This desirable state of things has essentially been brought about by the fixity of tenure conceded by the law of 1847, and the consequent security attaching to pastoral pursuits.

About ten months since gold in large quantities began to be found in this colony, an has gradually increased up to the present time.

The facility for acquiring wealth at the Gold Fields has not only withdrawn nearly the whole of the available labour from the ordinary industrial pursuits of the colony (agriculture is absolutely abandoned), but has induced an immense immigration of adventurers from every part of the world.

This immigration is rapidly on the increase.

Under these circumstances, it is with feelings of the most intense alarm that the pastoral tenants of the Crown in this colony have learnt it is the intention of his Excellency the Lieutenant-Governor *not* to issue the leases which the licensed occupants of the Crown lands are entitled to *demand* under the 11th section of the Orders in Council, notwithstanding it is under the Orders in Council they hold possession of their runs and pay the rent stipulated for the same.

It is also under the Orders in Council they have demanded leases of their runs, in accordance with the Government notice of 7th October 1847.

I shall not attempt to impute motives to his Excellency for adopting the line of policy he is now pursuing towards the pastoral tenants of the Crown in this colony.

It is understood his Excellency has written to Her Majesty's Secretary of State, advising the repealing of the Orders in Council, as promulgated on the 7th October 1847.

I now approach that portion of the question to which I would more praticularly draw your attention.

By the Act of Parliament Her Majesty, with the advice of the Privy Council, has the power to repeal, alter, or amend the Orders in Council.

Any repealing, altering, or amending, however, must be contingent on the rights and property which have arisen under the present law being protected.

Were the present law to be repealed without the rights and property which have arisen and been acquired under the same being protected, it would be an act of the most flagrant repudiation and confiscation of private property without parallel in the annals of political dishonesty.

It would simply be an act of wholesale robbery and spoliation.

Allow me, Sir, to assure you that, notwithstanding his Excellency has in the meantime determined to withhold the issue of the leases to the pastoral tenants of the Crown in this colony, those gentlemen rely with the most unswerving faith on the pledge of our beloved Queen and the honour of England; they also place the most profound reliance on the honourable feeling of those gentlemen Her Majesty has now called to Her councils.

I would, with great respect, call your attention to Lord Grey's Despatch to the Governor of New South Wales, bearing date 28th November 1846, accompanying the Orders in Council.

It is the production of one intimately acquainted with the bearings of the whole question, and received the approbation of the late Sir George Gipps, than whom no one could have a more profound knowledge of this vital question.

I would, with great respect, point out that the policy of England ought to be to encourage the pastoral interests of the colony by every possible means, as, both commercially and politically, it is of vast importance to the mother country, much greater even than the gold.

It is true that our export of wool in its raw state is inferior in value to that of gold, yet when British capital and labour is applied to each it will be found that our wool in its manufactured state is far more valuable than the gold, not only as giving employment to a vast number of labourers in the mother country, but ministering to the absolute necessities of our fellow countrymen; whereas the gold can only be used for coin, or a few articles of luxury. Besides, the production of gold may as suddenly cease as it has sprung into existence, while our production of wool will last while the sun shines and the rain falls, unless destroyed by abrogating the law, and rendering pastoral pursuits insecure and uncertain.

Politically, the pastoral interests are of great importance to England; the squatters, to a man, are actuated by feelings of the most devoted loyalty to our beloved Queen of veneration for the constitution of Great Britain, and attachment to the connexion between the colony and the mother country; they are the only class in the colony who can successfully resist the encroachments of an unscrupulous democracy, and the Crown can rely with confidence on their supporting the Government in the maintaining of order and the rights of property.

Maintain to the pastoral interests those just rights conceded to them by the law of 1847, and they are yet as powerful to guide the onward course of this flourishing colony as they have been to bring it to its present state of prosperity.

Abrogate that law, and throw around their occupation a feeling of insecurity, and I speak advisedly when I say, that (joined with the many difficulties they have now to contend with) ere five years shall have elapsed it will be a matter of history that ever wool formed an article of export from the once flourishing colony of Victoria.

Crush the pastoral interests, and no measure would so immediately tend to bring about that catastrophe which our opponents are so anxiously striving for, viz., a separation of the connexion of the colony with the mother country.

In conclusion, allow me, Sir, to state, that the licensed occupants of Crown lands in this colony look with implicit faith to Her Majesty's Secretary's of State recognizing in spirit and integrity those rights which have arisen and the property which has been acquired under and according to the Orders in Council promulgated in the colony on the 7th October 1847.

I have, &c.,

The Right Hon. Sir John S. Pakington, Bart. (Signed) WILLIAM FORLONGE.

Encl. 2 in No. 9.

Enclosure 2 in No. 9.

SIR, Melbourne, September 8, 1852.

HUMBLY conceiving it my duty, as the founder of this colony of Victoria, to state my opinions upon all matters connected with the present and the future welfare of Victoria, and finding from the records of the New South Wales Legislature that very grievous misrepresentations had passed from that body to the home Government, the result of which had been the issuing the Orders in Council of date 1847, which Orders have been a source of great ill-feeling, and of very great injustice to the colonists as a body.

By virtually locking up the lands of this fine province in the hands of a very small fraction of the people, men who possess the lands of the colony in very vastly unequal portions, witness per return May 1849, 339 persons held about 4,559,000 acres, and 11 persons in the same return held nearly as much, the first paying upwards of 3,400*l.*, and the latter, for the like quantity of land, only paying 320*l.* less, than one-tenth, and who enjoy all the benefits that can possibly accrue to them, paying literally nothing for these privileges, the which they now claim as "VESTED RIGHTS."

Your Government exacts the same rate of tax or rent for a new comer for the land on which to erect a tent as you charge the squatter for all his multifarious enjoyments or privileges.

They, the squatters, have held for sixteen years the whole of the lands of this colony, or nearly so, and have only paid about the sum of 240,000*l.*, or somewhere about 15,000*l.* a year, for the use of, for upwards of sixteen years, of 60,000,000 acres, and they have

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now, by their majority in the Legislature, to take from the revenue for next year 16,000*l.* by the assessment money,—in fact, to take away the payment of one halfpenny per sheep per annum,—so that this loss will be a yearly loss of 16,000*l.* per annum to the colony, and have coolly VOTED this sum into their own pockets,—at least a proportion thereof.

Sir, if the payment of 240,000*l.* in sixteen years entitles the squatters to hold 60,000,000 of acres, how much land should the men occupy who have paid into the Treasury no less than 776,840*l.* in the same time, and now only hold 391,097 acres?

The proposition to give this province to the squatters, to the 870 persons, is most monstrous.

The assertion that they have done any act to merit,—to deserve this boon, is untrue, and the vast influx of people will assuredly, by one means or other, prevent this great national and colonial wrong. The cry got up that the wool will be lost except the squatter is protected in his monstrous monopoly is also untrue and unjust, and will eventually be so proved.

For if the lands of the colony are sold, and in as large proportions as the people require, for the next five to ten years, there will yet be left large fields for grazing, equal to keeping the sheep now returned as upon the waste lands of this colony, and their increase. And allow me to state to your Excellency that the selling the lands of this colony will in no wise prevent the said lands from furnishing food for the sheep and cattle already depasturing thereon; but, on the contrary, the buyer will be likely to increase its productiveness; and the care of moderate holders of stock on their own (purchased) lands is certain of making these lands more productive of wool than the present wasteful squatting system.

May I beg of your Excellency to forward the enclosed (unsealed) to the Honourable the Secretary of State for the Colonies, and oblige

Yours, &c.

His Excellency the Lieut.-Governor. JOHN P. FAWKNER.

SIR,

THE following statement is furnished to you by a colonist of forty-nine years standing in these colonies,—by the colonist who first settled in Melbourne, and built, and cultivated lands, at Melbourne, in August and September 1835. On August 30th, 1835, I made the first settlement at Melbourne, Port Phillip, now Victoria, and ploughed, sowed, and harrowed in five acres of wheat in September 1835.

In 1836 the population was voted at	-	246	persons.
„ 1841 „	had increased to	11,738	„
„ 1846 „	„ „	32,879	„
„ 1851 March	„ „	77,345	„

In 1851 returns were applied for, and produced in 1852, June, furnishing accounts of all lands sold in this colony, from its foundation to 30th June 1851, as follows:—

Of all lands put up at 5*s.* per acre, and of all lands put up at 12*s.* and sold at public auction, 63,289 acres.

And further, from the date of the rise in the minimum price of land to 20*s.* per acre up to the 30th of June 1851 there was sold, by private sale, to capitalists and individuals who took such lots as had been refused at public auction, no less than 128,059 acres. A great part of this was to purchasers of from 5,000 to 20,000 acres, at the upset price.

The whole of the lands, as per return, sold, up to 30th June 1851, were only 391,094 acres.

	£	*s.*	*d.*
Of which quantity 63,289 acres averaged only 13*s.* per acre, or - - - - - - -	41,327	4	6
There was also sold by private contract 128,059 acres for	129,841	13	11
Making in all, in acres, 191,348. Total cost -	£171,168	18	5

Thus leaving a remainder of acres sold by public auction viz., 198,746 acres, at a cost to buyers of 605,673*l.*, considerably more than three pounds per acre for all the lands sold by public auction; and, taking the whole quantity sold, although some lands were put up at 5*s.* per acre, and some at 12*s.* per acre, yet the gross proceeds realised amounted to nearly two pounds sterling per acre. Thus much for the sale of lands by public auction.

The lands thus bought have cost per head to the whole population, man, woman, and child, upwards of ten pounds sterling each; and if you take from the gross census the 31,143 females, and the 17,427 males under twenty-one years of age, as per census of 1851, it will be found that 28,755 were the numbers of the whole male adult population of the colony. That if the whole of these 391,096 acres were equally distributed there would be above thirteen acres to each man, and they would have paid for land more than 27*l.* each. Some of these lands were put up for sale in the interior townships, and sold at upwards of 100*l.* per acre, and this was at public auction.

Turn now to the pre-emptive right granted to the squatter alongside of some of these country towns. The Government valuator employed to ascertain the value and fix the price to be paid by the squatter did actually (see returns) fix the minimum price of 1*l.* per acre, alongside of country townlands sold by auction for from 8*l.* to above 100*l.* per acre.

The squatter's pre-emptive right and title to lease is based on, and the Orders in Council were obtained under and by virtue of, fraudulent misrepresentations put forth by the Legislative Council of Sydney, New South Wales, and supported by the squatters and their partisans in London. The committee of the Legislative Council, and the witnesses they examined, declared that the lands of the colony were not worth the smallest coin current in Britain. They did make some trifling exceptions. And thus, by classing Port Phillip with the barren parts of New South Wales, obtained the same rules for this fertile country that might in part suit that colony, viz., New South Wales proper.

The land returns made to the Legislature here in June 1852, of the lands sold to 30th June 1851, completely disprove the representations of the above-named committee and their chosen witnesses. They distinctly stated that an upset price of one pound per acre would prevent the lands from being sold. The above return is an answer in full to this false statement. Let us see the extent of this colony or province. Mr. Westgarth's history of Port Phillip gives the area of the colony as containing 97,000 square miles. This gives us in round numbers 62,080,000 acres.

The squatters have for years asserted that they have all the useful grazing land in their possession beyond the settled districts. The settled districts are thought to contain the odd 2,080,000 acres; therefore the squatters hold about sixty millions of acres, and for which they paid last year license fees (they say), 14,000*l.*, and by way of assessment (as they say), 16,000*l.*, or, in the gross, 30,000*l.*, or at the rate of 500*l.* a year for each million of acres for lands that have hitherto sold at nearly two pounds per acre, as per Government returns furnished to the Legislative Council.

These men, the squatters, say now, that they cannot pay one halfpenny per annum per head for the feed of their sheep, and this, too, for land that sells at nearly two pounds per acre, and of which land they claim to monopolise ten acres for each sheep rent-free. Yet they say they cannot pay one halfpenny per year for each ten acres of land, although they get yearly near three pounds of wool per sheep, worth from 3*s.* to 4*s.* 6*d.* They declare that they will not pay any sum for the grass used by their flocks and herds, and virtually that the Orders in Council have consigned the whole of the lands of the colony into their hands, and that they will keep possession of them. To prove this I add, that the squatters who have seats in the Legislative Council of Victoria declared in the present sittings of that body that "they would not tax themselves;" and they did join together, and refused to continue the assessment upon stock of one halfpenny per head per annum upon sheep, and proportionate sum upon cattle and horses; and the squatter, Mr. W. F. Splatt, who proposed this abolition of 16,000*l.* a year for the feed of the five or six millions of sheep and cattle, is one of the largest holders of land, and also, I believe, of sheep; and he did thus virtually vote a large sum of money into his own pocket, using at the time, "Do you think we will tax ourselves?" calling the payment, so low as it is, for the grass their sheep, &c. eat, a tax; and the whole of the squatters present (not official members), together with two or three representative members, voted the assessment money into their own pockets! a case unparalleled in history for brazenness.

The squatters have not done any one act for this colony, or for this people, to entitle them to such undue advantages as they claim, viz., to hold possession of sixty millions of acres of land, a great part of which is rich agricultural land, for which to the extent of from three to four pounds per acre would have been given by public auction, had not the squatter interfered and prevented the sale, after the lands were advertised, and people collected at the auction room from 50 miles distant, prepared to buy these lands.

The squatter has not done any act to entitle him to hold his eight or nine hundredth part of sixty millions of acres for his proportionate share of 14,000*l.* a year; and it is a well-known fact that the lands cultivated by the squatters is worth far more than this sum yearly, five shillings per acre being the lowest sum usually paid in the interior for poor land to graze stock upon, that is to say, wherever the lands are sold;—Kilmore special survey to wit.

The squatter has not made any roads, nor paid for making any; the squatter has not paid any money to import immigrants from Great Britain or Ireland, but they have done so to import pagans and savages from China, from India, and from the South Sea Islands.

The present squatters, with very few exceptions, did not explore the country,—did not venture their lives amongst the simple aborigines; and the early squatters, who did assist to found this colony, and open up the country, received no reward nor no encouragement, save a yearly licence to graze their flocks and herds; and the men, in truth and sober fact, who have ousted the earlier settler, have been rewarded with what should have fallen to the real squatter settlers who explored the country.

The squatters hold these lands very unequally amongst them. The Government never adopted any system, but let them take land in any quantities they chose, without respect

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to the quantity of stock they held. In fact, no plan was ever acted upon. The return of quatters, laid upon the Sydney Council table, and ordered to be printed, May 22d, 1849, fully shows this, as follows :—

	Number of Persons holding Licences.	Number of Licences.	Money paid for Licences.	Land held, in Acres.
			£	
When less than 25,000 acres are held by each person - -	339	347	3,470	4,599,304
Not above 50,000 - -	153	180	1,800	5,304,014
„ 100,000 - -	103	162	1,620	7,141,107
„ 150,000 - -	33	52	520	3,996,109
„ 200,000 - -	16	31	310	2,660,960
„ 250,000 - -	5	16	160	1,094,638
„ 300,000 - -	4	11	110	1,064,805
„ 400,000 - -	3	10	100	1,079,120
„ 450,000 - - *	1	5	50	408,583
„ 650,000 - -	2	5	50	1,272,000
„ 850,000 - -	1	1	10	845,600

* Eleven persons holding 4,570,108 acres.

Thus, 339 persons, paying 3,470*l.*, hold for this sum 4,599,304 acres; the next, 153 and 103, 256 persons, paying 3,420*l.*, hold for this 12,443,121 acres, nearly three times the first 339 men's portion; and the last 11 persons, holding 32 licences, and paying only the sum of 320*l.*, hold lands to the extent of 4,570,108 acres, or within 30,000 acres of the quantity held by the first 339 persons, paying 3,470*l.* a year, viz., for one tenth of the sum.

The total number of persons accounted for in this return, with the quantities of land they held, was 660 persons, holding 820 licences, paying yearly 8,200*l.*, holding jointly 29,464,240 acres; and there are six persons on the same list, holding 7 licences, paying 70*l.*, who refused to return the quantities of land they held. Possibly the other 30,000,000 of acres are held by these six and the other 660 jointly.

Now, if 339 persons could claim by any acts of theirs a right to monopolize four millions and half of acres of land, worth at least four millions and a half of pounds sterling, what right can another 11 squatters claim an almost equal quantity, whilst they only pay 320*l.* a year to the first number's 3,470*l.* a year, or less than one tenth the sum for nearly the same quantity of land worth at least four millions and a half of British money?—320*l.* a year for land worth 4,500,000*l.*!

Again, let us compare 391,094 acres, a less quantity of land than is held singly by each of the eleven individuals before referred to. These 391,094 acres were sold; part by private sale, part by public auction; some put up at 5*s.* per acre, part put up at 12*s.* per acre; and yet these lands realized 776,841*l.* odd. Each of the above eleven persons hold lands that are or may be worth 2*l.* per acre,—lands worth 776,841*l.* to each of the eleven,—yet they only pay less than 30*l.* each, or, collectively, 320*l.* a year for eleven times as much land as sold for 776,841*l.*, for upwards of 4,500,000 acres; that is to say, they hold these lands, or did hold them, according to the return quoted before, and the present holders claim under their title.

A large population are now spread and spreading over this colony. There are numerous small towns and villages laid out through the length and the breadth of the country. The colony is in reality settled in its breadth and length; and the discovery of gold has introduced many thousands, who are fixing themselves in the interior, and many more thousands are coming. These people want breadstuffs. The carriage from the town costs in winter from 50*l.* to 180*l.* per ton. Bread or flour costs these prices for carriage *only*. These breadstuffs can be grown on the lands adjoining the mines, and that too from thirty to fifty bushels of wheat per acre, upon lands that the squatters say it takes ten acres for a sheep, and they cannot pay one halfpenny per sheep per annum.

Yet they demand to keep these lands. The lands are really worth, where good, from 20*s.* to 50*s.* an acre, and plenty of people ready to buy them; and these poor squatters say they cannot pay one halfpenny per ten acres. Is this just to the people here? Is the prevention of these lands from sale, and the withholding this money from the Treasury, and from importing immigrants,—is this politic, or is it just? These lands could be sold. The money would help Great Britain, by finding vent for its surplus population. This money would create a vast demand for her manufactures, as every immigrant, when settled here, demands and consumes at least 10*l.* worth of British goods yearly. A pauper can thus be taken from the ranks of the tax eaters, and made a tax contributor. Thousands, nay millions, of British subjects can be provided with homes here, and made (them and their families) comfortable,—yes, independent and happy,—instead of locking up this fine country in the hands of less than 1,000 persons,—these 60,000,000 acres.

There must be only one mode of acquiring lands in these colonies; that mode must be for all classes; and if any class deserves favour, it is the landholder who found the

cash to relieve the home market and provide labourers for the squatters, or they never could have reared the stock they now hold.

The whole number of sheep imported into this province is said to be less than a quarter of a million, and now they number five or six millions; these, besides the vast quantities that have been exported to Van Diemen's Land and elsewhere, the great numbers melted down into tallow, besides the supply of meat to this whole and rapidly increasing population. The flockmaster is likely to have a much better profit than ever before, yet he strikes off with his own hand the 16,000*l.* assessment for grass eat by his flock yearly, and turned into 1,000,000*l.* sterling worth of wool.

Yet with all these drawbacks upon the numbers of the sheep, in the few years the colony have been settled the flocks have increased twenty-two-fold. Here is an enrichment that the squatter has obtained solely by the undue advantages hitherto had, viz., an unlimited supply of land cost free (nearly). He could invest his whole capital in stock, less the few pounds for hut building, 10*l.* licence, and some tea, flour, and sugar. Then, in addition, he could cut wood, and use any quantity free of cost; quarry stone; or use clay for brickmaking, free of cost; fence in, for feeding or for cultivation, paddocks, as many hundreds of acres as pleased him, free of all cost; and these lands so cultivated were the prime lands of the colony,—yes, upon lands as good as the best farm lands sold, which have reached above 5*l.* per acre; but they held these and sowed and reaped free of rent.

The squatter Council in Sydney, in 1850, released the squatter's stock and stations from all auction duty. The land buyers had this duty to pay. And they also passed an Act to legalize their impounding stock on the 60,000,000 of acres amongst less than 900 persons; and although ten acres of land would not afford them wherewith to pay one halfpenny a year, yet this Act empowered them to levy as much for trespass as the landholder who pays from 1*l.* to 5*l.* per acre. And further, an addition was made in their favour, not granted to the man that buys and pays for his land: a clause was inserted in the Squatters Impounding Act, which passed through the Sydney Council in three or four days, that they should be allowed to charge, "in addition to the amount "of damage chargeable by law upon any such cattle, sheep, horses, or other animals so "trespassing as aforesaid, to charge all costs and expenses attending the driving of the "same to any such pound." And this has been made a serious source of injury. As much as 10*s.* per head has been charged for driving each of ten to twenty horses to the pound at one time; thus giving 10*l.* to two men for what they ought to do in one day. The landholder receives no pay for driving cattle or animals to pound, whatever the distance. No; the squatters made the law, and they have said openly in Council, "Do you think we will tax ourselves?" No; but they will tax everybody else. These words were used by Mr. W. F. Splatt, one of the holders of extremely large sections of land, and several of these sections.

The squatters say, virtually, they must hold the lands free of cost, in order to produce wool for the home market. This is untrue. The lands of the colony will feed as many sheep if sold, as now, let for nothing; and the lands of the colony will feed from six times to ten times the number of sheep last returned as grazing in this colony, viz. 5,550,000, or thereabouts; and these lands will feed as many sheep after it has been sold to those willing and able to buy. Selling these lands will not preclude the grass from growing;—it will not lessen the quantity of sheep, nor reduce the quantity of wool growing on their carcase, and which may eventually be exported. On the contrary; if these lands are sold, the owners will exert themselves to make these lands yield more grass, and consequently feed more sheep, and thus produce more wool; and sheep, as well as land, when held in moderate quantities, are more certain of the care and attention of the owner and his family, and are thus rendered more productive.

The squatters hold a vast quantity of land of which they give no return. They hold lands upon which no stock is kept, except for a small part of the year; and one man, a large holder, having two sections, each above 100,000 acres,—who boasts that he came here a labourer,—he holds some 250,000 to 300,000 acres, and has not stock for 50,000 acres. And why is this? Simply because he pays next to nothing for it. Let him pay its value, and he will not keep it idle long. The lands of this colony in 1836 were unoccupied. In 1841 there were but a few thousands here. In 1846 there were above 32,000 souls; and up to that time it did not matter who had the lands, because the people were few. But now, in 1852, when our population is some 120,000 to 140,000 souls, and thousands a month pouring in, and where half of these are in what are preposterously called the unsettled districts,—on lands that are called the *waste* lands of the Crown,—and yet these so-called *waste lands*,—these unsettled lands,—are actually realising some hundreds of pounds per acre, at the Gold Fields, by dint of the sinews and bones of the working classes thereon employed,—where can be the sense or the reason, now, when gold is discovered all over the land,—when men pay per month 30*s.* each for a piece of ground eight feet in length each way, say 64 square feet,—I say, where is the sense or the reason in locking up these lands at a nominal rent of 250*l.* per million acres, when the gold-diggers pay more in one year for one acre, and preventing these lands being sold by auction? They must bring 1*l.* per acre; and I may safely say, the good lands will double that sum, at least near the mines, and that not gold-diggers' land, but for houses and for cultivation.

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And all these people and all this good is to be destroyed, in order to suddenly enrich some 800 to 900 persons.

It is preposterous,—it is unjust,—it is most assuredly dangerous. The digger, for his small plot, pays 18*l.* a year; the squatters, for 60,000,000 acres, pay only 14,000*l.*, by their own showing. This course is defrauding the revenue,—is injuring the Queen, who is trustee for the people. The land is not the property of the squatter, and all the men they employ serfs!

If the Government of Great Britain does not interfere, and that quickly and effectually, I fear that anarchy and bloodshed may yet be the upshot.

The squatters say there are many millions of acres in the settled districts and in the intermediate open for sale. This is not quite true. There are not many millions of acres in the whole settled districts, and in the intermediate the Government have only put up for sale town or suburban lots, which realize unthought of prices. As much as 100*l.* and upwards have been given for half an acre. Owing to the small quantity put into the market at one time, the monopoly is the Government's, in order, seemingly, to give the rest of the land over to the squatter and the mineman.

There is said to be about 2,000,000 acres in the whole of the settled districts. But a great part of this is uncultivateable. Yet the Government and the squatters wish all this to be sold before the intermediate lands are sold. But the gold-diggers and others require to buy lands around the inland towns, where the soil is good; not the sterile lands around Melbourne. The lands the people want to buy are the rich agricultural lands that are fit for farming or gardening, and grazing their flocks and herds, and working cattle. Why should these lands be kept from ready sale, merely to get a nominal rent from the squatter? Thousands of people are ready to buy, and they have plenty of money to pay for the land, at a high figure, if land is put up for sale where people wish to settle.

The Orders in Council prevent the buyers of land and their tenants from grazing on any unbought lands, and thus injure the farmer, who, if he puts his working team out to feed, and they cross from unpurchased lands to the so-called "waste lands," the squatter, that will not pay one halfpenny a head per annum for each sheep, pounces upon the farmer's stock, charges fourpence damage, and frequently from one shilling to ten shillings per head for the plough oxen and horses, for driving them to pound, even where less than a mile distant;—the squatter paying, as Mr. W. F. Splatt does, as per return, only 10*l.* a year for No. 250, being 67,200 acres, and No. 251, being 48,000 acres, or 20*l.* for 115,000 acres.

The Orders in Council of March 1847 provided for the alteration in this colony which is now taking place. The Queen in Council did extend the settled districts more than a year after they were promulgated, and extended them to Belfast and Warnambool for ten miles around each. This must be done now to the whole colony; the whole must be a settled district. The Act provides that the Orders may be altered, amended, or repealed. They should be repealed, and the whole of Victoria made "settled district." The Gold Fields and spread of people will do this. Let the British Government only confirm it.

The British Government will allow the squatters, under proper regulations, to hold the unsold lands as grazing grounds until the people are prepared to purchase them, or till the expiration of the eight years and fourteen years leases respectively.

The squatters have enjoyed the almost sole use of the lands of this colony from 1836 to 1852; and by returns, dated 9th July 1852, the accounts are brought up to July 1, 1851, and the whole sums paid for the 60,000,000 of acres for sixteen years are, as per return—

	£	s.	d.
Assessment upon stock, 1836 to 1851, July 1 - -	94,951	6	0
Licences to depasture stock, same period - - -	145,454	6	0
Total in sixteen years - -	£240,405	12	0

Upon this miserably small sum the flockmasters have held this country for sixteen years a complete and ruinous monopoly, and for this they claim to have the pre-emptive right.

They have reared and kept upwards of 5,500,000 sheep, besides melting down hundreds of thousands into tallow, and exporting as many to sell to kill, and also supplying the markets here with fresh meat.

From this increase of stock of twenty-two fold in sixteen years, besides the sale and export of meat and tallow, they have for several years past exported wool to nearly the value of (yearly) one million. They hold 60,000,000 of acres, and claim to hold in pre-emptive right, because they have held, in sixteen years at a rate of each year 15,000*l.*, or 240,405*l.* 12*s.* 0*d.* The purchasers of land have had, with a few exceptions, only the land they bought, viz., 391,094 acres, for which they have paid in cash 776,841*l.* The interest of this at colonial price, 10 per cent., is 77,684*l.*, so that for this bit of land they have paid five times as much as the squatters for all the millions of acres they hold.

The people want land; immigration purposes require money; the land will sell for money; this sale of land will equalize the exchanges, and benefit the poor labourer and the rich manufacturer, and will find homes and independence for hundreds of thousands.

If the Government persist in giving this rich land to about 870 squatters, they injure Britain, and will lay the seeds of a fearful revolution. And if they, in conformity with the Orders in Council, extend the settled districts over the whole colony, re-letting all the lands from year to year that are not sold,—after the eight years and the fourteen years leases would have expired, say in 1855 and in 1861, then in that case the Government would achieve a great good to this colony.

I cannot close without quoting the words published by Francis Murphy, Esq., at present a member of the Legislative Council of Victoria, and leader of the squatters.

Published in the Melbourne Morning Herald of September 1st, 1849, in the sixth section of the said letter are these words and figures :—

" Section 9 of the 'Orders in Council,' unmistakably stamps the value. Here is the " burden of it. That nothing in any lease is to prevent the Governor from making " grants or sales of any lands of a run for public purposes, *or of disposing of them in " such way as for the public interest may seem best, or for any other purpose of public " defence, safety, utility, convenience, or enjoyment, or for otherwise facilitating the " improvement and settlement of the colony.*"

And he, Mr. F. M., goes on thus : "What is the value of a lease with these reservations? " What would it be between private parties? But it may be said, you have the pre- " emptive right. Perhaps we have, at 1*l.* per acre in the wilderness ; a right of about as " much value as the lease, which I have calculated at a button. It is clear the squatters " are occupying and are to occupy only till their runs are required for the settlement of " the colony ; and this effort to force them to survey the country for all time coming, " under the plea of their *advantages*, is 'a mockery,' a 'delusion,' and 'a snare.' The " Government will say, no doubt,—you asked for a lease. We did, I reply. You have " certainly kept the word of promise to the ear, but MISERABLY broken it to the sense " We asked for a fish, and you gave us a serpent.

" I am, Sir, &c.,
(Signed) " FRANCIS MURPHY."

" Ovens River, September 1, 1849.

" P.S.—I would beg to add, that I do not think it is compulsory on the squatters to " take leases at ALL."

And the editor of the M. M. Herald adds :—

" Our correspondent's arguments are unanswerable. We have already taken the same " view as he does of this vile impost."

Note.—The underlined words are italicised in the printed letter.

The impost referred to is the payment of the expense of survey for the leases, viz., the squatters to pay for the survey of their lands previous to the issue of leases,—leases which were to include from 25,000 to 50,000 to 100,000 acres to one man under one 10*l.* a year licence, provided the squatter returned such lands as unable to keep more than 4,000 sheep or their equivalent in cattle ; and many squatters did so return them 1*l.* for the use of 10,000 acres of land per annum, enough grass to feed 5,000 sheep for 1*l.* sterling per year.

The finish is thus : Last year, the squatters paid about 30,000*l.* for the use of the lands of the whole colony (less the settled districts). For the next year they have refused to vote the continuance of the assessment (one halfpenny per sheep per year) and thus rob the revenue of 16,000*l.*

And they will pocket this money amongst themselves ; and for the future they will only pay for these 60,000,000 of acres the petty sum of about 14,000*l.* a year.

Can any Government, after learning these facts, and after seeing their own leader's words, used in Council, and printed in the " Melbourne Morning Herald," continue this grievous wrong to the the colonists, and to all the subjects of Great Britain and of Ireland that may come to these shores? I trust they will not.

I here leave this matter in the hands of the Colonial Minister, who will find the feeling of the people here from the reports of the public meetings held upon this subject, and from the petitions on the same important matter, seriously requesting him to bear in mind, that whatever representations the squatters send home, are got up at private meetings, where the press and the public are excluded ; that they are only some 800 persons) that any petitions they send home are carried round privately, and signed by their personal friends and dependents ; and that one of the largest holders of these waste lands of the Crown (and surely in these cases these are waste lands, for they bring in only nominal rents,) plainly declared, when he moved to strike off the 16,000*l.* a year assessment money, the petty sum paid for the grass used yearly by 5,500,000 sheep, besides cattle and horses,—" That they (the squatters) would not tax themselves."

I have, &c.
(Signed) JOHN PASCOE FAWKNER,
Member of the Legislative Council of Victoria.

The Right Hon. Sir J. S. Pakington, Bart.

P.S.—Pray look into the squatters returns, and see how many thousands of acres this celebrated speech-maker, Mr. W. F. Splott, holds. Recollect that in 1849 eleven men held upwards of four millions and a half of acres, and paid 320*l.* a year.

J. P. F.

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Encl. 3 in No. 9.

Enclosure 3 in No. 9.

To the Queen's most Excellent Majesty.

The humble Petition of the undersigned licensed occupiers of waste Lands of the Crown in the colony of Victoria, on behalf of themselves and the other licensed occupants,

Showeth,

That the great bulk of the waste lands of the Crown in this colony was first discovered and occupied by the present licenced occupants, or by their predecessors, whose interests in such waste lands, as conferred by the Crown, they purchased, and whom they now represent.

That the flocks and herds introduced by Your Majesty's petitioners and their predecessors have given a value to the land which could have been imparted to it in no other way, and have been the means of creating an export of wool and tallow which has been hitherto the chief cause of the prosperity of this colony, and proved of vast importance to the mother country, the trade of the merchant, the shopkeeper, the artisan, and agriculturist, each receiving a stimulus from the large amount of money and merchandise introduced in exchange for this export, and disseminated in the shape of high wages and other expenditure through the entire community.

That the value of this export of wool and tallow amounted in 1850 to upwards of one million pounds sterling.

That in the discovery and settlement of this country Your Majesty's petitioners, and those whom they represent, expended much capital, experienced great personal hardships, and made great social sacrifices; were continually exposed to great risk of life and property, passing a life of great hardship and privation; and that for many years, owing to the high price of labour, to the losses consequent on a new settlement, and other causes, the profits of your petitioners were so small and precarious that many of the first settlers became insolvent.

That in consideration of the causes shortly stated above, and for divers other good reasons, an Act was passed by the Imperial Parliament in the year 1846, empowering Your Majesty to grant leases of eight and fourteen years to your petitioners, and to make regulations by Order in Council as to the terms on which such leases should be granted, and for other matters connected therewith, as more fully alluded to in the explanatory Despatches of Your Majesty's Secretary of State to the Governor of New South Wales, accompanying the Order in Council.

That in pursuance of the authority thus vested in Your Majesty, Your Majesty did, on the 8th day of March 1847, by Order in Council, divide the lands of this colony into three classes, called respectively the settled, intermediate, and unsettled districts.

That by these Orders Your Majesty declared that the occupants of lands in the unsettled districts should be entitled to demand leases of their respective runs, and the Governor was empowered to grant such leases for 14 years, subject to certain reservation for public purposes therein specified.

That within lands coming under the description of intermediate lands Your Majesty further declared, that leases should be acquired on similar conditions, but that they should only last for eight years, and that at the expiration of each year of the lease the Governor, on giving to the lessee sixty days notice, might offer the whole or any part of such lands for sale by auction, subject to the right of the lessee to purchase any portion of them at their fair value, ascertained by arbitration in the mode pointed out by such orders.

That in the settled districts leases for exclusively pastoral purposes should be granted for one year, but revocable should the land be required for sale.

That the settled district comprises all lands within twenty-five miles of Melbourne, fifteen of Geelong, ten of Portland, Alberton, and Belfast, and within two miles of the sea-coast of the whole colony. This is computed to contain an area of about three millions of acres.

That the intermediate district comprises the sixteen counties of Victoria, and the whole of Gipps Land, not contained in the settled district, and is computed to contain about twenty millions of acres.

That the purchased land amounts to about 400,000 acres, not one tenth part of which has ever as yet been brought under the plough; while the cultivation of the arable lands which were under tillage previous to the discovery of gold has been since then in a great measure abandoned for the more lucrative pursuit of gold digging; and that there are upwards of 2,500,000 of acres which may be put up for sale as soon as the surveys of them are complete, and 20,000,000 which may be put up for sale at the expiration of each year of lease, subject to the proviso permitting the lessee to purchase such portion as he may require, at its fair value; so that with a population of 120,000, or even if it amounted to several millions, there is no just pretence for saying that there is not sufficient land at present obtainable for all agricultural purposes required by the colony; or that the lands of the colony would be confiscated, or occupied prejudicially, if leases for the limited terms contemplated by the Orders in Council were issued to the licensed occupants, the public interest being protected by the proviso above cited.

That your petitioners have made their claims for leases within the time prescribed by the Orders in Council; but that, owing to some cause with which your petitioners are not acquainted, the Lieutenant-Governor of this colony has not issued any leases to your

petitioners, nor has he declared when they are to issue, nor the time from which they are to date, although frequently requested so to do, and although the Governor-General in the neighbouring colony of New South Wales has declared that in that colony leases under these Orders are to issue and to bear date the first day of January 1852.

That on the faith of these Orders in Council many persons have invested their entire capital in the purchase of runs, and that claims to the leases, with the privilege of purchasing at a valuation, were made transferable through the sanction of Government by the proclamation of the thirtieth day of June 1848, the language of which is so clear and express as to the right to sell leases which many of Your Majesty's petitioners have bought, that they cannot but consider that it will be impossible to deprive Your Majesty's petitioners of the rights acquired by them under so express a sanction without disregarding entirely those principles which are essential to the protection of property and of public faith.

That very large sums of money have, upon the faith of the above proclamation, been paid by persons settling in the colony in this purchase of leases by such proclamation authorized to be sold, believing that the capital brought over by them for the purpose of investment and enterprise could not be more securely laid out or more beneficially employed than in the acquiring of any interest guaranteed by the Crown in connexion with an occupation to which the colony owed its progress, and by which the mother country had been, and still is, immensely benefited.

That about ten months ago gold in large quantities began to be discovered in this colony, and that every succeeding month has shown the excessive richness of the deposits of this metal. That in consequence of this discovery there has been a large influx of gold-seekers from the neighbouring colonies, the population of Victoria having increased in a few months from 77,000 souls to about 120,000.

That the wealth derived from the Gold Fields has more than kept pace with the increase of population, upwards of four millions of pounds sterling in value having been raised in the short time mentioned, and that from these causes all property in the colony, with the exception of sheep, has risen in value; but that as yet, owing to the difficulties of procuring labour, the effects of the gold discovery have been most disastrous to the sheep farmer; the increased demand for the carcase being not more than equivalent for the stoppage of the export of tallow consequent on the want of hands at the melting establishment, while the expenses of rearing stock is greatly increased by the want of labour before alluded to.

That the withholding of leases on the part of the Government has discouraged your petitioners from taking those steps for dispensing with labour which they might otherwise have taken by fencing in runs and procuring permanent water by artificial means, and that thus the present great want of manual labour in the colony, joined with the beforementioned withholding of the leases, is certain materially to impair, both in quality and quantity, that export of wool which has conduced so much to the past prosperity of this colony, and has at the same time promoted the manufacturing interests of the mother country.

That a party in this colony look with jealousy at the increased value which the holdings of your petitioners, in common with all other property, are likely to derive from the discovery of gold, and, as your petitioners are informed, have petitioned Your Majesty to revoke the Orders in Council, and to break Your Majesty's promise and the good faith of Parliament pledged to your petitioners.

That your petitioners feel that it might be considered an insult to Your Majesty to conclude with a prayer that Your Majesty would preserve inviolate a pledge solemnly given. It is therefore from no distrust in Your Majesty's good faith that they now approach Your Majesty on the subject which they would not have done did they not fear that their silence might be construed into an approval of the proceedings of the persons beforementioned, and an indifference to their own rights.

Your petitioners therefore pray that Your Majesty will give directions to the Lieutenant-Governor of Victoria to carry out the Orders in Council in the spirit in which they were made by issuing leases to your petitioners dated, as proposed by the Governor-General in New South Wales, from the first day of January 1852, and securing to them the rights guaranteed by those orders.

And your petitioners will ever pray.

Ninety-two signatures to original document on parchment.

Enclosure 4 in No. 9.

To his Excellency Charles Joseph LaTrobe, Esquire, Lieut.-Governor, &c. of the Colony of Victoria.

The Petition of the undersigned residents in Belfast and its vicinity,

Most respectfully showeth,

That your petitioners believe that an irreparable injury to the interests of the majority of the inhabitants of the colony of Victoria, as well as a serious check to its advancement and improvement, would be caused by the issuing of leases to the squatters in the form

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and with the privileges given to that class by Her Majesty's Orders in Council of March 9th, 1847.

That your petitioners believe that leases, if issued at all, should not be issued until the present Orders in Council are altered in such a way as will adapt them to the present and future prospects of this colony.

That such alterations were contemplated by Her Majesty's advisers is clearly shown by the 16th section of chapter II. of those Orders, where it is implied that the then or now existent unsettled or intermediate districts may at any time be brought within the settled districts.

That a precedent for such alteration has been already established by the proclamation of the settled district of ten miles around this and the adjacent township of Warrnambool.

That your petitioners believe that the existing law as regards the occupation of Crown lands has materially checked, if not altogether prevented, the emigration from England to this colony of the middle and portion of the higher classes, who, without the capital to purchase squatting stations, had yet sufficient to enable them to become purchasers and permanent occupiers of agricultural land ; but who, believing they could not obtain such here, have gone to another and a foreign state to enrich it with capital and energy which might have been, under a law dispensing even-handed justice to all classes of Her Majesty's subjects, to their benefit and that of this colony exercised here.

That the present mode of acquiring land by the squatter by what is called the pre-emptive right, the price being ascertained by valuation, is open to many grave objections, and must always be productive of discontent and injury to the public generally.

That under that right and system many squatters having runs eminently adapted for agriculture might become, by the assistance of English capitalists, the possessors in fee-simple, not of sheepwalks or of estates, but of principalities.

That the Crown lands being virtually the property of the people should only be sold in such a way as will be conducive to their interests and the advancement of this colony, and therefore your petitioners believe that they should be sold only by public auction, and that the squatter should only hold his land until the circumstances of the colony require that it should be brought forward for sale, or until it may be otherwise required for the public benefit, but that his right until then should not be interfered with.

And therefore your petitioners beg leave to request that your Excellency will be pleased to recommend such an alteration to be made in the existing law as may be in accordance with the views of your petitioners.

And your petitioners, as in duty bound, will ever pray, &c.

244 Signatures.

Encl. 5 in No. 9.

Enclosure 5 in No. 9.

At a large and most influential Meeting of the licensed Occupants of Crown Lands held this 2d day of September 1852 at the Prince of Wales Hotel, Melbourne, Victoria, for the purpose of preparing a Petition to Her Majesty in reference to the rights of the Petitioners arising under the Orders in Council,

John Carne Riddell, Esq., M.L.C., in the chair,

1. It was proposed by Mr. John Goodman, J.P., and seconded by Mr. Alexander Cunningham, J.P., and carried unanimously :—

" That the pastoral tenants of the Crown in the colony of Victoria having been assured of the possession of leases for one, eight, or fourteen years respectively in the settled, intermediate, and unsettled districts by Her Majesty's Orders in Council, dated 8th March 1847, founded on an Act of the Imperial Parliament, have a just claim to have those orders, which came into operation on the 7th October 1847, carried out according to their spirit and real intention, as more fully explained in Lord Grey's Despatches of 20th November 1846 and 20th March 1847."

2. Proposed by Mr. W. Campbell, M.L.C., and seconded by Mr. W. F. Splatt, M.L.C., and carried unanimously :—

" That claims to leases, with the privilege of purchasing at a valuation, became marketable through the sanction of Government by the proclamation of 1st January 1848, and that a very large proportion of the present holders have purchased their claims at a high value, so that property to a large amount has changed hands under such pledges of public faith, and in the fullest confidence that the law affecting so great an interest would be held sacred by the British Parliament."

3. Proposed by Mr. William Forlonge, and seconded by Mr. A. Campbell, and carried unanimously :—

" That the demand for land is fully provided for by many millions of acres within the settled and intermediate districts, which, under the Orders in Council, may be made available for sale for agricultural purposes."

4. Proposed by Mr. Colin Campbell, and seconded by Mr. Horace Wills, and carried unanimously:—

"That the squatters of this colony, while they admit that the agricultural wants of the community should be amply provided for, are also of opinion that the maintenance of the pastoral interests is of still greater importance, as they supply a large export of wool required at home for manufacturing purposes, and at the same time provide a sufficient supply of animal food, which cannot be imported, for the use of a rapidly increasing population; and that a system of long leases for pastoral purposes is calculated greatly to develop the resources of the colony by justifying the expenditure of capital on valuable improvements."

5. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Compton Ferrers, J.P., and carried unanimously:—

"That while the pastoral tenants of the Crown are denounced as conspirators against the peace and prosperity of the colony by men who advocate the subdivision of the public lands among the people at large, and the confiscation of existing interests, they have ever occupied the position assigned to them by the Crown, and discharged its obligations with loyal submission as colonists and British subjects, and that they now believe that those who combine the possession of property and intelligence, both in town and country, are favourable to the maintenance of that pastoral system which has proved so beneficial to all classes of the colony."

6. Proposed by Mr. W. F. Splatt, M.L.C., and seconded by Mr. Adolphus Goldsmith M.L.C., and carried unanimously:—

"That the following gentlemen—

J. C. Riddell, Esq., M.L.C.,
W. Campbell, Esq., M.L.C.,
John Goodman, Esq., J.P.,
William Forlonge, Esq., and
Colin Campbell, Esq.,

be appointed a committee to transmit a copy of the foregoing resolutions to his Excellency the Lieutenant-Governor in time to go home by the "Chusan" steamer.

A vote of thanks to the chairman being passed, the meeting separated.

(Signed) J. Carre Riddell,
Chairman.

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Despatches from the Secretary of State.

No. 1.

No. 1.

Copy of a DESPATCH from Earl Grey to Lieutenant-Governor LaTrobe.

(No. 19.)

Sir, Downing Street, July 26, 1851.

14th July 1851. The enclosed is a copy of a letter from Mr. Walter Riddell, bringing under my notice the circumstances under which an alleged sale of Crown land has taken place in the neighbourhood of Melbourne to Mr. Clarke, and pointing out the injury which had been thereby occasioned to certain parties who appear to have been in previous occupation of a portion of the property.

I have apprised the writer, that in the absence of any information in regard to this case, I am unable to come to any decision respecting it, and I have to desire that you will furnish me with a full report on the subject.

I have, &c.

Lieutenant-Governor LaTrobe, (Signed) GREY.
&c. &c &c.

Encl in No. 1.

Enclosure in No. 1.

Stoke Newington, Middlesex,
July 14, 1851.

My Lord,

I have the honour to address your Lordship with reference to the contemplated large sale of Crown land at Mount Macedon, near the city of Melbourne, Port Phillip, to Mr. Clarke, and to request your Lordship's kind consideration of the case, which I now beg leave to submit.

Towards the latter end of last year, my friends Messrs. Riddell and Hamilton, of Mount Macedon, who have been upwards of ten years there, and who, after the investment of considerable capital, as well as the employment of much labour and anxiety, were pursuing their occupation as wool-growers with some degree of comfort and success, when they were with others completely startled by the announcement of a large Government sale of land to Mr. Clarke by private contract, at the minimum price of 1*l.* per acre, a considerable portion of the land in the occupation of my above-named friends being included therein, and from the occupancy of which they had received notice to quit.

I understand the home regulations did not contemplate such sales in the settled districts; and though some portion of the land forming part of Mr. Clarke's purchase may not have been surveyed, the parties, desirous no doubt of making their holdings as secure as possible, applied some time previously to have parts of their runs, especially their home stations, surveyed; but the Government postponed complying with their requests, intimating that there was abundance of time, and that justice would be done them.

I further understand that a right of pre-emption was given to the occupiers of land by the home regulations; but this does not seem to have been allowed on the occasion referred to.

I shall be glad, therefore, if you will allow me, accompanied by one or two other gentlemen, to have an interview with your Lordship with reference to the matter in question; and sincerely hoping that your Lordship will take into consideration the case of those who, after struggling for and with difficulty obtaining in a distant land a home for themselves and families, find themselves, soon after realising their ardent and laudable desires, served with notice to quit those very homes, the right of purchasing which even seems to have been denied them,

I have, &c.,

The Right Hon. Earl Grey, (Signed) Walter Riddell.
&c. &c. &c.

P.S.—The honour of an answer addressed to me at No. 4, Sidmouth Terrace, Walton-on-the-Naze, where I shall be for a short time, will greatly oblige. W. R.

No. 2.

No. 2.

Copy of a DESPATCH from Earl Grey to Lieut.-Governor LaTrobe.

(No. 22.)

Sir, Downing Street, August 30, 1851.

I transmit to you the copy of a letter from Mr. James Bingley, dated Geelong, the 18th of February last, representing that you had refused to

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forward one addressed to me on the 10th of that month, a copy of which, and of your answer respecting it, is also annexed. Before noticing the subject of that communication, I have to observe that it appears that in declining to give effect to the writer's wishes, you had done so in pursuance of the direction of the Governor of New South Wales, contained in the Colonial Secretary's letter of 30th May 1850. Under the circumstances, you were of course justified in acting on the instructions which you received from Sir C. FitzRoy; but I have written to that officer, expressing my regret that such a course was adopted, and explaining the rule to be followed in the transmission of letters to the Secretary of State, and I now enclose for your information and future guidance a copy of my Despatch.

Feb. 18, 1851.
Feb. 10, 1851.
Mr. LaTrobe, Feb. 12, 1851.
No. 108, 30th August 1851, Page 73.

In his letter of the 10th of February, Mr. Bingley complains of the conduct of the local Government in respect of the selection of land in the Port Phillip district; first, that they had refused to put up to sale certain land now under lease, for which he has applied, and, secondly, that during the twelve months between 1st July 1849 and 1st July 1850 there have been only two public sales of land.

On the first point, you will refer Mr. Bingley to the intimation directed to be conveyed to him in my Despatch to Sir C. FitzRoy of the 20th of April 1849, namely, that I considered his complaint to be groundless, and that I was therefore unable to interfere with the decision which had been taken by the local authorities.

Upon the second point, the omission to hold land sales, I should wish to be informed how far the writer's statement is accurate, and whether the requirements of the 6th section of the Land Sales Act, which enjoins that once at least in each quarter of the year one public sale of land by auction shall be held, have been duly complied with. It is, of course, absolutely necessary that this provision of the law should be strictly complied with; and I think it further essential for the purpose of giving proper facilities for the acquisition of land by those who may wish to purchase, that the lots put up at the quarterly sales should considerably exceed the probable demand, so that there may always be land open for purchase by applicants under the rule established by the Act of Parliament, that land once offered for sale by auction, but not sold, may be purchased at the upset price.

I have to desire that you will furnish me with a report on this subject, explaining fully what has been the system of management hitherto adopted.

I have, &c.
(Signed) GREY.

Lieut.-Governor LaTrobe,
&c. &c. &c.

P.S.—Since the above Despatch was written, I have received a further letter (of which the enclosed is a copy) from Mr. Bingley, pointing out a recent instance of the inattention which he alleges to have been shown to the applications addressed by him to the local authorities.

April 14, 1851.

(Signed) GREY.

Enclosure 1 in No. 2.

Encl. 1 in No. 2.

My Lord, Geelong, Port Phillip, February 18, 1851.

I beg leave most respectfully to transmit to your Lordship the enclosed letter, dated the 10th February 1851, addressed to your Lordship.

I beg to state that I had the honour to forward that communication to his Honour the Superintendent for transmission to your Lordship. His Honour returned the letter, with the annexed reply.

I beg leave to bring under your Lordship's notice, that the refusal of the local Government to transmit the letter referred to deprives me of the right of petition to Her Majesty against any unjust treatment I may consider I have received at their hands.

In the annexed letter, his Honour states that the complaints have in all their main features been brought under your Lordship's notice. I beg to state that I am not aware that such has been the case.

I have, &c.
(Signed) James Bingley.

The Right Hon. Earl Grey,
&c. &c. &c.

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Enclosure 2 in No. 2.

Encl. 2 in No. 2.

My Lord, Geelong, Port Phillip, February 10, 1851.

I have the honour to transmit to your Lordship a statement of the treatment I have received from the local Government.

On the 29th July 1847 I made application to purchase three sections of land of 640 acres each, which received the sanction of his Excellency for sale. The only obstacle that then interposed was the inability of the Survey Department to complete the survey. This obstacle was allowed to exist until the Orders of the Queen in Council came into operation, conferring the right of pre-emption to the licensed occupant to select any portion of land in his occupation. His Honour then contended that these lands must be treated as lands subject to the Orders of the Queen in Council, although they had been previously promised for sale. This, I beg to submit to your Lordship, was a great injustice.

On the 27th March 1849, his Honour the Superintendent addressed a letter to Mr. T. P. Bingley, which was placed in my hands for my information, that the law officers of the Crown had adjudged it as their opinion that these lands could only be offered for sale subject to the present licensed occupant's right of pre-emption, or compensation for his improvements.

On the 28th June 1850, his Excellency issued a notice to the licensed occupants to claim their pre-emptive right conferred by the Orders in Council; and at the Government land sale, in September last, lands of the same description was offered for sale, and the unsold portions are now open for selection as country lands; which, I most respectfully submit to your Lordship, removes the obstacles referred to by the law officers of the Crown.

I beg your Lordship's particular attention, that I brought this question under the notice of the local Government. I received in reply from his Honour the Superintendent, that it had been decided that it was not at present in the power of the Government to resume forcible possession, and dispose of these lands at the instance of a private individual.

I now submit to your Lordship's consideration the injustice of the local Government in having refused compliance with the third chapter of the said Order in Council, empowering the Governor to offer the whole or any portion of such run for sale; and that it cannot be construed into taking forcible possession by the Government offering them to public competition, now that the licensed occupant is in a position to claim his pre-emptive right, and is in full enjoyment of all the privileges conferred by Her Majesty's Order in Council.

In a communication dated the 14th January 1851, his Honour makes another statement, that he has received a reply from his Excellency the Governor, to a letter of mine of the 28th October last, that the reply, as might be expected, reiterates the decision already arrived at, in accordance with the opinion of the law officers of the Crown, namely, that previously to the issuing of leases the Government is not in a position to sell land except to the licensed occupant himself.

I beg to submit to your Lordsnip that the former opinion of the law officers did not make the sale of the land dependent on the issuing of the lease, and that this obstacle can only be viewed as having been brought forward at the present time to meet this special case.

I have now only to complain to your Lordship that the reluctance on the part of the local Government to offer land for sale does not only exist in respect to land in the intermediate district, but also to land in the settled district, inasmuch as the Act of Parliament for the sale of waste lands, 5 and 6 of Victoria, clause 6, expressly provides that there shall be at least one land sale in each of the four usual quarters of the year. From the 1st July 1849 to the 1st July 1850 there has been but two land sales.

I therefore beg your Lordship's particular attention, that if the violation of the Act of Parliament and the regulation for the sale of waste lands are permitted, the serious inconvenience and loss that must inevitably ensue to individuals who have placed implicit reliance on the report of the Land and Immigration Commissioners in respect to the purchase of land in this colony.

I have, &c.

The Right Hon. Earl Grey, (Signed) James Bingley.
&c. &c. &c.

Enclosure 3 in No. 2.

Encl. 3 in No. 2.

Superintendent's Office, Melbourne,

Sir, February 12, 1851.

I have to acknowledge the receipt of your letter, dated the 10th instant, with further reference to your application to purchase waste lands of the Crown on the River Leigh; and in returning the enclosed communication addressed to the Right Hon. Earl Grey, I beg to state that I am quite unable to undertake the duty you would impose upon me.

The Executive Government of the colony is quite ready to reply to any inquiry or reference which the Secretary of State may still judge expedient to make on the subject of the complaints advanced by yourself and your brothers respecting the withholding of land from sale, &c, complaints which have been already in all the main features brought under his Lordship's notice ; the result of this reference has been also long since communicated to you. Your brother, Mr. T. P. Bingley, will doubtless have informed you that he was apprised, by a copy of a letter addressed to the Superintendent by the Colonial Secretary during last year, that his Excellency must decline to be the medium of transmitting any further communication from you on the subject.

I have, &c.

Mr. James Bingley, (Signed) C. J. LaTrobe.
Geelong.

Enclosure 4 in No. 2.

Encl. 4 in No. 2.

My Lord, Geelong, Port Phillip, April 14, 1851.

I have had the honour to receive two letters from Mr. Hawes, dated 11th October and the 23d November 1850, in reply to two communications addressed by me to your Lordship on the 1st May 1850, in which I complained of the treatment I had received from the local Government, and the 22d June, forwarding the refusal of the local Government to transmit the said letter dated the 1st May.

Mr. Hawes's letter of the 11th October reached here on the 9th February last. The local Government not having complied with your Lordship's instructions, I ventured to address a copy of the enclosed letter, dated the 14th March, to his Honour the Superintendent ; having received no reply, I addressed a second letter, the 7th April, to ascertain if the former letter had been received ; neither of them have been acknowledged. It appears to me, that the local Government are treating your Lordship's instructions with the same contempt as they have treated the Acts of the Imperial Parliament relating to the land sales ; therefore, the local Government have left only one of two courses open for me to take ; that is, either to appeal to the Imperial Parliament or to appeal again to your Lordship out of the usual official channel. I could not take the former course without treating your Lordship with that disrespect which it is my great anxiety to avoid.

In being compelled to appeal again to your Lordship, out of the usual official course, I cannot refrain from expressing to your Lordship my regret at the loss of time that must of necessity take place, and the loss that I must inevitably sustain by being kept out of business for so long a period.

I trust that your Lordship will take this present cause of complaint into consideration at the same time that your Lordship judges of the contempt with which the local Government have treated your Lordship's instructions.

Since I had the honour to address your Lordship on the 1st May last, other circumstances have occurred that would enable me to prove more clearly to your Lordship the injustice that I have received from the Government, had I been afforded the opportunity that your Lordship's instructions directed. But as I am precluded from having my complaints forwarded through the prescribed channel, even in defiance of your Lordship's instructions to that effect, I refrain from troubling you with fresh matter of complaint, until I am favoured with your Lordship's decision on what is already before you, and on the conduct of the local authorities in depriving me, as a British subject, of the constitutional right of bringing my complaints against the local authorities under consideration of their official superiors, through the prescribed official channel for such appeals.

I have, &c.

The Right Hon. Earl Grey, (Signed) John Bingley.
&c. &c.

Sir, Geelong, March 14, 1851.

On the 1st May 1850, I forwarded to your Honour a communication addressed to the Right Hon. the Secretary of State, complaining of what I considered the unjust treatment I had received from the local Government. Your Honour is aware that that communication was refused transmission through the usual official channel ; at the same time I forwarded a duplicate direct to the Secretary of State.

Early in the month of February last I received an intimation from B. Hawes, Esq., Under Secretary, that the application should have come through the Governor, and that the Governor was directed to inform me that it was necessary that a fresh application should be made through him ; that opportunity not having been offered me, am I to understand that the local Government still refuse me the right to appeal against the injustice that I consider I have received at their hands.

I have, &c.

His Honour C. J. LaTrobe, (Signed) John Bingley.
&c. &c. &c.

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SIR, Geelong, April 7, 1851.

ON the 14th March I addressed a letter to your Honour having reference to a communication that I had the honour to receive from the Under Secretary of State; it not having heen acknowledged by your Honour, I beg to be informed if it has been received.

I have, &c.

His Honour C. J. LaTrobe. (Signed) JOHN BINGLEY.
&c. &c. &c.

No. 3.

No. 3.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor LATROBE.

(No. 34.)

SIR, Downing Street, November 20, 1851.

I HAVE received a Despatch from the Governor of New South Wales, enclosing a letter * which he had received through you from Mr. J. P. Fawkner, of Melbourne, on the subject of the present regulations affecting the occupation of the Crown lands in Victoria. You will acquaint Mr. Fawkner that I have received and considered his representations, but that I have not seen sufficient reason for directing any alteration in these regulations.

* Page 45.

I have, &c.

Lieut.-Governor Latrobe, (Signed) GREY.
&c. &c.

No. 4.

No. 4.

COPY of a DESPATCH from Earl GREY to Lieut.-Governor LATROBE.

(Separate.)

SIR, Downing Street, November 20, 1851.

IN my Despatch of this day's date I communicated to you the answer which I thought it right to return to the representation of Mr. Fawkner; but as some of the points to which he adverts may possibly form the ground of question more generally in the colony, I take the opportunity of expressing my views in regard to them in a separate Despatch.

1st. It is represented that squatters frequently themselves charge from 100*l.* to 500*l.* a year to other parties, for which they only pay the Government 10*l.*; and it is suggested, in order to prevent the accumulation of excessive tracts in the hands of individuals, that it should be clearly ascertained how far the land held by squatters is stocked, and that no person should be allowed to hold more than one lease, or 50,000 acres. On this suggestion it may be observed, that, by the Order in Council of the 9th March 1847, leases have been already promised to the existing occupants on certain terms, and that so material a qualification of these terms could not now be insisted on, even if it were in itself desirable. I am not, however, of opinion that it would be desirable to attempt to prevent any one person from extending his operations over more than 50,000 acres.

2d. An apprehension is expressed that the squatters will prevent persons from cutting timber, taking stone, or making roads upon their runs; and it is urged that a squatter should not be allowed to acquire any right over his lands except that of grazing. The squatter can no doubt prevent any private person from making use of the land over which his lease extends; but you may dispose "as for the public interest may seem best" of such part of any run as may be required "for the construction of roads," "for any other purpose of public defence, safety, utility, convenience, or enjoyment," or "for otherwise facilitating the improvement and settlement of the colony." It is scarcely necessary for me to observe, that, with the exception of a very limited right of cultivation, the squatter would not be enabled by the present regulations to use the runs leased to him for any other than pastoral purposes.

It is therefore apparent that the Order in Council, while it has anticipated part of the suggestions which have in this case been brought under the consideration of Her Majesty's Government, has rendered it no longer possible to adopt the remainder.

I have, &c.

Lieut.-Governor LaTrobe, (Signed) GREY.
&c. &c. &c.

No. 5.

VICTORIA.
No. 5.

COPY of a DESPATCH from the Right Hon. Sir JOHN S. PAKINGTON to (No. 4.) Lieut.-Governor LATROBE.

SIR, Downing Street, March 24, 1852.

I HAVE received your Despatch addressed to my predecessor, No. 16*, of the 9th of August last, with the representation therein contained from Mr. John Bingley. * Page 78.

You will acquaint Mr. Bingley, that with regard to that portion of his representation which relates to his own personal interests I can only refer him to the previous decisions of my predecessor, and that as regards the questions of a more general nature, to which he has called the attention of the Government, as to the effect of the existing pasturage regulations on the sale of land in the Australian colonies, there do not appear to me to be any sufficient reasons for altering in these respects the provisions of the Order in Council under which those pasturage regulations are fixed and enacted.

At the same time I transmit for your consideration a copy of a report which I have received from the Colonial Land Commissioners on that subject, and I wish to call your attention to the various suggestions which that report contains.

I have, &c.
(Signed) JOHN S. PAKINGTON.

To Lieut.-Governor LaTrobe.
&c. &c &c.

Enclosure in No. 5.

Encl. in No. 5.

Colonial Land and Emigration Office,
28th February 1852.

SIR,

1. WE have to acknowledge the receipt of your letter of the 30th ult., enclosing the copy of a memorial from Mr. J. Bingley of Geelong, and desiring us to report on the questions raised by Mr. Bingley as to the general effect of the existing pasturage regulations on the sale of land in the Australian colonies.

2. The facts of Mr. Bingley's own case have been fully stated and discussed in our reports of the 12th of April 1849 and 28th of July 1851 ; and there is nothing in his present memorial, so far as his own claims are concerned, to induce us to retract or modify the opinions we have before expressed upon it. We proceed, therefore, at once to the general questions to which your letter draws our special attention.

3. First.—Mr. Bingley states, that although the local Government have refused to put up to sale land in the occupation of the licensees, on the ground that it could not legally be sold till leases had been issued, yet that they had, a twelvemonth before, invited the licensees to purchase the same land under their pre-emptive right. And he argues that if the absence of a lease incapacitated the Government from selling to the one class, it equally incapacitated them from selling to the other. The difference, however, between the two cases is evident, and is indicated by Mr. LaTrobe. The reason why the Governor cannot, without consent of the occupant, put up for sale lands in the intermediate or unsettled districts, is, because that occupant has acquired rights under the Order in Council of 9th March 1847, with which the local Government has at present (*i.e.*, until the issue of leases) no power to interfere. But this objection does not apply to a sale taking place with the consent of the occupant, much less to a sale to the occupant himself. It is no doubt unfortunate that the occupants of pastoral land should, for so long a period, retain the power of obstructing all sales of the land which they occupy. And if any length of time were likely now to elapse before the completion of the surveys, it might be necessary to remove this difficulty by the issue of an additional order by Her Majesty in Council ; but as we should hope that before this time a large portion of the surveys will have been completed, and leases of the runs be consequently issued, it does not seem advisable now to interfere in the matter.

4. Second.—Mr. Bingley states that land sales are not held, as required by the Land Sales Act, once in each quarter. Mr. LaTrobe points out, in answer to this, that the Land Sales Act does not require a quarterly sale in each of the divisions of the colony, and that under any circumstances the Government of Victoria cannot be responsible for the omission. We had anticipated this answer in our report of 28th of July last ; and as the district of Port Phillip has now been erected into a separate colony, and periodical land sales must accordingly now be held within its limits, the evil of which Mr. Bingley complains is, we think, sufficiently provided against.

5. Third.—Mr. Bingley alleges that the local Government keep the quantity of land brought into the market permanently below the demand, concealing the practice by includ-

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ing in each land sale land which would not pay for its cultivation if granted gratuitously; and the effect he states to be, that bad land is sold at an exorbitant price, while good land is locked up from purchasers. To this representation Mr. LaTrobe gives a distinct contradiction, and asserts that the local Government have for many years considered it their duty to recommend for sale all land which was applied for, so far as they were legally competent to do so, and as the state of the survey permitted. We may add, that from the land returns in our office for the year 1850 (the latest date to which they have been furnished) it appears that on the 31st December 1850 there were in Port Phillip 2,450,000 acres of land surveyed and open for settlement, of which 1,500,000 were estimated to be available for settlement, and that during the year 1850 the average price of rural land in the district was only 1*l.* 2*s.* 9*d.*, or little more than the minimum upset price allowed by law. The first fact appears scarcely consistent with the assertion that the supply of land has been habitually kept below the demand. The second shows that the price has not been unnaturally forced up.

6. Fourth.—Mr. Bingley expresses his disapproval of that provision of the Order in Council which gives the squatters a right of pre-emption of their lands without competition; and he illustrates the inconvenience of the system by a case which he states to have occurred in the neighbourhood of Colac, where a squatter acquired, at the minimum price, a section of land adjoining the township, and commanding all its supply of water, while an adjoining section was selling at from 5*l.* to 20*l.* an acre, and afterwards offered the section so acquired to persons who had been for years attempting to purchase it from the Crown at the rate of 5*l.* an acre. Mr. Bingley adds, that he would himself willingly pay the squatter in possession of the land which he desires to acquire a considerable advance on the purchase from the Government, if the squatter would, by exercising his pre-emptive right place, himself in a position to sell the land. In answer to this statement, Mr. LaTrobe expresses his doubt as to the correctness of Mr. Bingley's representations, observing that very few portions of runs have been selected under the Regulation of 28th of June 1850; but he seems to assume that such a case would be the probable result of the Order in Council, and that no system of Government valuation would secure to the public the advantages or the price which an individual might obtain in the sale of such land. It is, we think, to be regretted, considering how easily the truth of Mr. Bingley's statement might have been tested, that Mr. LaTrobe did not inquire more particularly into it; and it would also have been more satisfactory if he had explained at somewhat greater length the grounds on which he appears to think, that the sale by the Government at the minimum upset price of land, which is immediately resold for five times that amount, is the "unavoidable operation of the Orders in Council and Regulations founded upon them."

7. The provisions of the Order in Council which create and regulate the pre-emptive right of leases are the 6th and 15th sections of the second chapter. By these it is provided, that in the unsettled districts, during the currency of a lease, the land contained in a run shall not be open to purchase by any except the lessee, but that the Governor shall be allowed to sell to the lessee any portion, not less than 160 acres, at a price not less than 1*l.* per acre, and that on the expiration of a lease "it shall be competent" for the Governor to put up to sale any of the lands included in a run, on condition,—

1st. That the lessee shall have the option of purchasing at the unimproved value of the land, such value not to be less than 1*l.* per acre;

2d. That if the lessee decline, the improvement should be valued, and added to the upset price; and,

3d. That if the land is sold, the value of the improvements should be paid over to the lessee. The conditions in the intermediate districts are precisely the same, except that for the purposes of sale the lease may there be terminated at the end of each year.

8. It will be thus seen that the Order in Council leaves to the Government a discretion, first, as to whether the land in a run should be sold at all, and, secondly, as to the price at which it should be sold, and that the pre-emptive right of the lessee is subject to these important limitations. The motives which dictated these provisions are easily intelligible. To make it imperative on the Government to put up to auction any part of a run which might be applied for by others than the lessee, would subject a lessee to continual extortion and annoyance, and destroy the security which it was the principal object of the Order in Council to establish; for, as the most valuable part of a run is the homestead, and as in many runs there is but one spot which could be appropriated to this purpose, a speculator would be able, by demanding that the homestead should be put up to sale, to compel the lessee either to buy him off or to purchase the land at any price to which the speculator might bid it up. This would have been a palpable injury and injustice to the stockholding interest. On the other hand, it would be very injurious to the general interests of the colony if the stockholders had been allowed, by refusing either themselves to purchase or to allow others to purchase portions of the runs, to lock up from cultivation the lands which the progressive development of the colony required for agriculture. To avoid these opposite difficulties, the Order in Council committed a full discretion in the matter to the Governor, as being the person least likely to be biassed in the matter, and most fitted to hold an even balance between the claims of the stockholders and of the general settlers. We confess that we are unable to point out any way

in which the end could be more properly attained. That a discretion must exist somewhere will be at once admitted. That the authority invested with it must be on the spot, disinterested and impartial, is equally clear. We do not think that these requisites are so likely to be combined in any one as in the officer at the head of the local Government. If cases have occurred in which, as Mr. Bingley alleges, land has been sold to a squatter very much below its known value, the fault is not in the system, but in the administration of it. The Order in Council fixes only a minimum (not a maximum) price, and the price to the squatter in the case in question ought to have been fixed at the fair value of the land. The complaint which Mr. Bingley makes, of the delay in bringing the Order in Council into operation, by reason of the non-issue of leases, is one which must be in progress of remedy, and will, we should hope, have been to a great extent removed before this time. Nor is there anything to show that the local Government could have effected the surveys more rapidly than has been done.

9. Upon the whole, we would submit our opinion that no sufficient grounds have been alleged by Mr. Bingley to require an alteration of the Order in Council of 9th March 1847, especially as no such alteration could with justice apply to existing interests; but it might perhaps be desirable to urge on Mr. LaTrobe the necessity of pressing forward the survey of the intermediate and unsettled districts, as far as the means at his command will admit, and to issue leases as soon as practicable to the occupants of runs. The Secretary of State might also think it right to require from Mr. LaTrobe a report as to the present state of the survey, and the time at which it may be expected to be finished.

We have, &c.

(Signed) T. W. C. Murdoch.
Frederick Rogers.

No. 6.

Copy of a DESPATCH from the Right Hon. Sir John S. Pakington to Lieut.-Governor LaTrobe.
(No. 10.)

Sir, Downing Street, May 4, 1852.

I have received your Despatch, No. 42,* of the 21st of October last, in which you request instructions for your guidance in various cases in which you may receive applications from different religious bodies for grants of land for the erection of churches, schools, and ministers' dwellings; the question of doubt arising from the difficulty in deciding on the admission of applications of that description from sections of the community whose existence and constitution as distinct bodies, although sufficiently defined according to their own views, may not be of a character to give sufficient guarantee against abuse, and to afford such an assurance of stability as may reasonably be required before making the grants in fee-simple for the purposes required.

* Page 87.

On referring to the previous correspondence which illustrates the intentions of the Government at the period when the Church Extension Act of New South Wales was brought into operation, I am led to the conclusion that the object there contemplated was to grant aid to every denomination of Christians which should possess any organized governing body or board of trustees, showing at the same time stability of purpose and existence.

In Lord Glenelg's Despatch, No. 81, of the 30th November 1835, the general principle is stated, that as regarded the places and ministers of worship the amount of private contribution should be the condition and measure of public aid.

It appears to me exceedingly difficult, under the practice which has obtained in the Australian colonies on this subject for so long a period, to attempt to lay down any abstract rules which would be applicable to the varying circumstances of each individual case occurring in a distant colony. The only class of new applicants which you specifically name are those in connexion with the Free Church of Scotland. If the differences existing in the Scotch Church are still maintained in the colonies, I conceive that the claims of the members of the Free Church there are as strong as those of the other Presbyterians.

Adverting, however, to the more general question, it would appear that the local Government of New South Wales have given such extension to the operation of the principle referred to as they have considered just and proper, and it is a subject which must necessarily, especially under the present constitution, be left very much to the judgment and discretion of the local authorities.

In considering the various applications with which you may have to deal, I think that the general considerations which ought chiefly to govern the decision

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would be,—the number of colonists applying for the grant of land, the amount of funds which might be available for the erection of the buildings on it and for the maintenance of the contemplated establishment, and reasonable grounds for supposing that the parties interested had stability of purpose in entering on the undertaking.

I do not consider that the grant of such assistance can be consistently restrained within narrower limits.

I have, &c.

Lieut.-Governor LaTrobe, &c. &c. &c.

(Signed) JOHN S. PAKINGTON.

No. 7.

No. 7.

Copy of a DESPATCH from the Right Hon. Sir John S. Pakington to Lieut.-Governor LaTrobe.

(No. 58.)

Sir, Downing Street, September 16, 1852.

I have carefully considered the contents of your Despatches*, Nos. 19 and 20*, of the 30th of January and 2d of February last, reporting on the subject of the sale of a large block of land in the neighbourhood of Melbourne to Mr. Clarke, and on the appeal of Mr. Walter Riddell against it, as well as stating that, as the sale had been completed and the money for it paid, you had declined to comply with an application to withhold the issue of the formal deed of grant to Mr. Clarke.

* Page 88 & 90.

I approve of the various steps which you have taken in all these proceedings. As the sale to Mr. Clarke was legal and valid, you acted quite right in declining to withhold the issue of his grant. On the other hand, I think that you judged rightly in the objections which you urged beforehand to making the sale; and I have to express my cordial approval of your having refused, after the subject became one which you could dispose of by your own authority, to make a further sale to Mr. Clarke, or to make similar sales of large blocks of land by private contract to several other persons who applied to you for the purpose. Such sales appear liable to entail hardship on third parties, unless very carefully guarded by special stipulations, and in the present circumstances of Victoria and New South Wales, with large deposits of gold scattered over the territory, it is evident that the indiscriminate sale of large tracts of land, without their being subjected to public competition, would be likely seriously to prejudice the public interest.

I have, &c.

Lieut.-Governor LaTrobe, &c. &c. &c.

(Signed) JOHN S. PAKINGTON.

APPENDIX.

New South Wales.

No. XLII.

An Act declaratory of the Right of Occupants of Crown Lands to impound Cattle and other Animals found trespassing thereon. [Assented to, 2d October 1850.]

Preamble, declaring that all occupants of Crown lands, whether under lease, licence, or other authority granted by the Crown, are empowered to impound animals trespassing thereon, and in addition to damages to charge expenses of living; subject to appeal to nearest court of petty session

Whereas doubts have arisen whether persons who now or may hereafter occupy waste lands of the Crown, under lease, licence, or other authority granted by or on behalf of the Crown, are entitled to impound cattle or other animals trespassing thereon, and it is expedient to remove such doubts: Be it declared and enacted by his Excellency the Governor of New South Wales, with the advice and consent of the Legislative Council thereof, That all persons in occupation by lease, licence, or other authority granted by or on behalf of the Crown shall be and are hereby empowered to impound any cattle, sheep, horses, or other animals trespassing thereon, and to drive them (if need be) to the next or nearest public pound; and in addition to the amount of damage chargeable by law upon any such cattle, sheep, horses, or other animals so trespassing as aforesaid, to charge all costs and expenses attending the driving of the same to any such pound: Provided always, that if the owner or bailee of any animals so trespassing shall be dissatisfied with any such charges, he may apply to the court of petty sessions nearest to such pound, which shall have power to summon all parties, with their witnesses, and to examine them upon oath in a summary way, and to assess such damages as may appear to be reasonable and fair, and such assessments of damages shall be final and conclusive between such parties; and such court of petty sessions shall have power (if necessary) to order so many of any such trespassing animals to be sold as shall be required to pay all such damages, as well as all fees and other charges due to the keeper of any pound in which any animal so trespassing shall be impounded.

Locus in quo in action of replevin.

II. And be it declared and enacted, That in any action of replevin brought for any distress of cattle, sheep, horses, or other animals damage feasant beyond the settled districts, it shall be sufficient, in any pleading, particular, or other proceeding, to describe the locus in quo in the same manner as such locus in quo is required to be described in any action of trespass quare clausum fregit.

(Signed) Charles Nicholson, Speaker.

Passed the Legislative Council, this
27th day of September 1850.
Wm. Macpherson, Clerk of the Council.

In the name and on behalf of Her Majesty, I assent to this Act.
(Signed) Chas. A. FitzRoy,
Governor.

Government House, Sydney,
October 2, 1850.

Victoria

[Act, No. 15. of 1852, "To restrain by summary proceedings unauthorized mining on Waste Lands of the Crown," will be found already printed for Parliament, at page 129 of Papers on the "Recent Gold Discoveries in Australia," presented by Her Majesty's command, June 14, 1852.]

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